California Policy Options

2023

UCLA Luskin School of Public Affairs

2023

California

Policy

Options

Edited by Daniel J.B. Mitchell

California Policy Options 2023
Copyright 2023 by the UCLA Luskin School of Public Affairs

All rights reserved.

Except for use in any review, the reproduction or utilization of this work in whole or in part in any form by electronic, mechanical, or other means, now known or thereafter invented, including a retrieval system is forbidden without the permission of the UC Regents.

Published by the UCLA Luskin School of Public Affairs
UCLA Luskin School of Public Affairs, Box 951656
Los Angeles, California 90095-1656

Editor: Daniel J.B. Mitchell

Table of Contents

p. 2 Preface

p. 3 Introduction

p. 7 Chapter 1: The California Economic Outlook: *We Ain't Out of the Woods*
Christopher Thornberg and Taner Osman

p. 19 Chapter 2: Budget, What Budget? *California State Budgeting for 2022-23 In an Era of Flush Reserves*
Daniel J.B. Mitchell

p. 55 Chapter 3: Human Capital in the United States and Los Angeles
William Yu

p. 69 Chapter 4: Inside the Feud Over Minimum Parking Requirements in California
Evan Farrar

p. 85 Chapter 5: Playa Vista: LA's Model in Sustainable Development
Jois Talla

p. 97 Chapter 6: Designing a Carsharing Pilot Program for Los Angeles
Michaela Byrd, Richard Diaz, Steven King, Ha Luong and Atsushi Seto

p. 125 Chapter 7: Improving Transit Access for Low-Income Angelenos Through the LIFE Program
Devin Mitchell, Kirim Lee, Shogo Yago, Yuki Abe

p. 151 Chapter 8: Backlash: California Moves Left and Right: *The Rumford Fair Housing Act and Proposition 14 of 1964*
Daniel J.B. Mitchell

p. 177 Chapter 9: Round 2: Bradley Versus Yorty
Daniel J.B. Mitchell

p. 207 Chapter 10: Transforming Car Wash Worker Rights: *An Analysis of California's "Car Wash Worker Law"*
Katherine Sánchez, Lily Cain, Sonita Tan, and Anahí Cruz

p. 233 Chapter 11: Expanding DNA Collection from Felony Arrestees in California: *"Differently Situated Arrestees"*
Stanley M. Paul

Preface

This year's publication of *California Policy Options* continues the long-established tradition of presenting wide-ranging analyses of statewide and regional issues, as well as those that affect cities, local communities and individuals. The 2023 edition again features an in-depth analysis of California's budget and an economic outlook for the state.

This collection also examines a variety of important and current topics including transportation and technology, labor, land use and development, housing, and criminal justice.

UCLA Professor Daniel J.B. Mitchell has again brought together a timely collection of California-focused articles that add to a long list of important readings for policy and law makers and for students at UCLA and beyond.

This edition *of California Policy Options* provides analysis of the state's public policy challenges from a variety of viewpoints as well as their political, economic and historic contexts. For more than two decades, *California Policy Options* remains an important resource for researchers and journalists, as well as leaders and lawmakers, with up-to-date research and public policy recommendations on issues and opportunities in the state.

Gary Segura

Dean, UCLA Luskin School of Public Affairs

Introduction

Since 1997, the UCLA Luskin School has sponsored the annual volumes of *California Policy Options*. Throughout much of that long period, Stan Paul – the School's Media Relations Manager – has graciously prepared the volumes for publication and we thank him here. Our edition for 2023 divides into five broad categories, Economics and Related Issues, Urban Planning and Development, Transportation, Racial History, and Social Justice.

Economics and Related Issues

In our first chapter, Christopher Thornberg and Taner Osman of Beacon Economics review the economic outlook as of late fall 2022. That outlook was decidedly confusing. There was slow-to-negative real growth at the national level but, in sharp contrast, very low unemployment and reports of labor shortages. Inflation at levels not seen since the late 1970s and early 1980s added to the confusing indicators. In the short run, Thornberg and Osman note, much will depend on what the Federal Reserve chooses to do about inflation. In the longer term, California continues to face a chronic problem of affordable housing.

The California state budget is strongly affected by economic trends, mainly through their impact on the tax base. At the time the budget for fiscal year 2022-23, Professor-Emeritus Daniel J.B. Mitchell tells us in chapter 2 that the state seemed to be rolling in money and had built up large reserves. New programs were announced, and various rebates were included in the budget. Whether this fiscal largess can continue will largely reflect state economic conditions and – because of the heavy dependence of state revenue on the circumstances of a relatively small cadre of top-bracket earners – developments in financial markets. In the period after enactment, the governor and others in state government began to warn of potential revenue problems in the years to come.

Apart from cyclical moves, the long-term trend of an economy depends on various “supply-side” fundamentals, especially human capital. William Yu of the UCLA Anderson Forecast updates his research on human capital in the Los Angeles area in chapter 3. In absolute terms, LA has been a laggard in human capital – not a good sign – but Yu finds a hopeful indicator when he focuses on human capital in the millennial population of the region. The statistical evidence Yu examines unfortunately does not cover the period of the pandemic, which led to severe education disruption. It remains to be seen what effect that disruption will have in the future on human capital accumulation.

Urban Planning and Developments

As our summary of the economic outlook noted, the provision of affordable housing has been a challenge for much of California. Throughout the state, local zoning rules have typically required that developers include provision for minimum parking spaces in housing construction. Of course, such provision adds to cost and encourages automobile usage. In chapter 4, Evan Farrar, a former public affairs major at the Luskin School, notes the changes that are occurring at the state and local levels to eliminate such parking minimums. Reducing minimum requirements does not mean that no parking will be provided by developers. But they might cut back to levels below existing required minimums if they are allowed to do so.

Chapter 5 by Jois Talla, also a Luskin student, provides a case study of Playa Vista, a development in the west LA area that illustrates contemporary trends in urban planning. Playa Vista's construction and planning involved dealing with environmental challenges and ultimately featured increased density and a focus on sustainability. It also featured set-asides for low-and-moderate income housing, apart from its market-rate offerings.

Transportation

Although local transportation policy is sometimes presented as automobiles *or* mass public transit, there are options that fall in between. In chapter 6, Michaela Byrd, Richard Dias, Steven King, Ha Luong, and Atushi Seto, graduates of the Luskin Master of Public Policy (MPP) program, examine such an option: car sharing. Within car sharing is the option of peer-to-peer (P2P) sharing. Various sub-options within that approach are available. The City of Los Angeles has been interested in promoting P2P car sharing. After an examination of previous experience with such programs, the authors suggest establishing a pilot program so that more data can be developed on usage and other aspects of car sharing.

Chapter 7 by Devin Mitchell, Kirim Lee, Shogo Yago, and Yuki Abe – also Luskin MPP graduates – examines a program to make public transit offered by LA Metro, the major provider of such transportation in Los Angeles County, more accessible to low-income residents. An important barrier to access is, of course, the fares charged. However, fares in LA County are already heavily subsidized through tax measures and other sources of support. However, LA Metro has a program of making available further discounts which could be enhanced and enlarged. Many potential transit users are unaware of the current program, a situation that suggests putting more effort into outreach and information. In addition, recent pandemic-related service cutbacks are a barrier to usage, and it will be important to undo these cutbacks to make transit more useful to low-income riders.

Racial History

Previous editions of *California Policy Options* have examined the three successful election and re-election campaigns of Los Angeles Mayor Sam Yorty in 1961, 1965, and 1969. Yorty's campaigning style would today be branded as "populist." However, after the 1965 Watts Riot, Yorty seemed to be affronted that such an event could occur in his city. The mayor's 1969 campaign for re-election against African American Tom Bradley took on an overtly racist tone.

In chapter 8, Daniel Mitchell examines one factor often cited as a cause, or at least a prelude, to Watts, the passage of a state proposition in 1964 that sought to void California's Rumford Fair Housing Act. The chapter reviews the original passage of the Rumford Act in the state legislature and the campaign by the California real estate lobby to repeal it. In chapter 9, Mitchell reviews Yorty's last campaign for re-election in 1973, a repeat contest with Tom Bradley, which featured the same racial elements that had carried the day for Yorty in 1969. Those same tactics, however, failed in 1973, leading to Bradley's victory and ultimately his two decades as mayor.

Social Justice

California has featured a bifurcated labor market with some very high paid workers – notably in the tech sector – and a large number of low-wage workers in such areas as hotels, janitorial services, food service, and other sectors. One sector that is reliant on low-wage work is the car wash industry. Various enactments of state legislation have focused on labor law enforcement in that industry. Basically, the state has created a registration program. Car washes are supposed to register and pay fees that provide an avenue of redress when violations of state pay minimums occur. In chapter 10, Katherine Sánchez, Lily Cain, Sonita Tan and Anahí Cruz, all MPP graduates, examine the state's car wash program and suggest improvements. They suggest more vigorous enforcement of labor standards and a lien system that would better ensure payment of required wages.

Finally, in chapter 11, Stan Paul explores privacy and constitutional issues raised when DNA samples are taken and retained from arrestees in California. On one hand, maintenance of databases of such DNA samples can prove helpful in identifying suspects in criminal investigations. But on the other hand, individuals may be arrested, but not charged or convicted of any crime, and later linked by DNA identification to crimes unrelated to the causes of their arrests. As new cases arise, the state Supreme Court has yet to make a comprehensive ruling on what is and is not allowed.

Daniel J.B. Mitchell
Professor Emeritus, UCLA Anderson Graduate School of Management
and UCLA Luskin School of Public Affairs

Chapter 1

The California Economic Outlook: *We Ain't Out of the Woods*

Christopher Thornberg and Taner Osman

Christopher Thornberg is Founding Partner and Taner Osborne is Manager, Regional and Sub-Regional Analysis of Beacon Economics, LLC. This chapter reflects information available as of September 2022 and does not reflect subsequent developments. Data shown on the charts come from Redfin, the U.S. Bureau of Labor Statistics, the U.S. Bureau of the Census, and the U.S. Bureau of Economic Analysis.

Although California is the largest state in the U.S. – whether measured by population or its share of total national Gross Domestic Product (GDP) – the state is not an island economy. Its economic ups and downs are heavily influenced by what happens in the rest of the country. Thus, in a broad sense, the California outlook and the national outlook are intertwined.

The year 2022 began with a reported two-quarter decline in real GDP. There is an old rule of thumb that a recession is defined as two quarters of negative growth. But in fact, the recession "call" is made by a group of economists at the National Bureau of Economic Research. Even apart from the fact that the reported decline in the first half of GDP was a preliminary estimate that may be revised away, it does not appear that a recession in any conventional sense occurred at that point. The labor market continued to exhibit low unemployment, high vacancy rates, and continued reports of labor shortages even as real GDP ostensibly declined. Such labor market behavior is not typical of a recession.

- The decline in output, to the extent one occurred, was not created by increases in slack capacity. Rather, the decline was driven by rapidly shifting patterns of demand, which in turn were driven by frenetic changes in Federal Reserve monetary policy.

- While parts of the U.S. economy seem likely to remain sluggish because of rising interest rates, consumer spending at this writing is pushing the overall economy forward and appears likely to continue to do so into 2023.

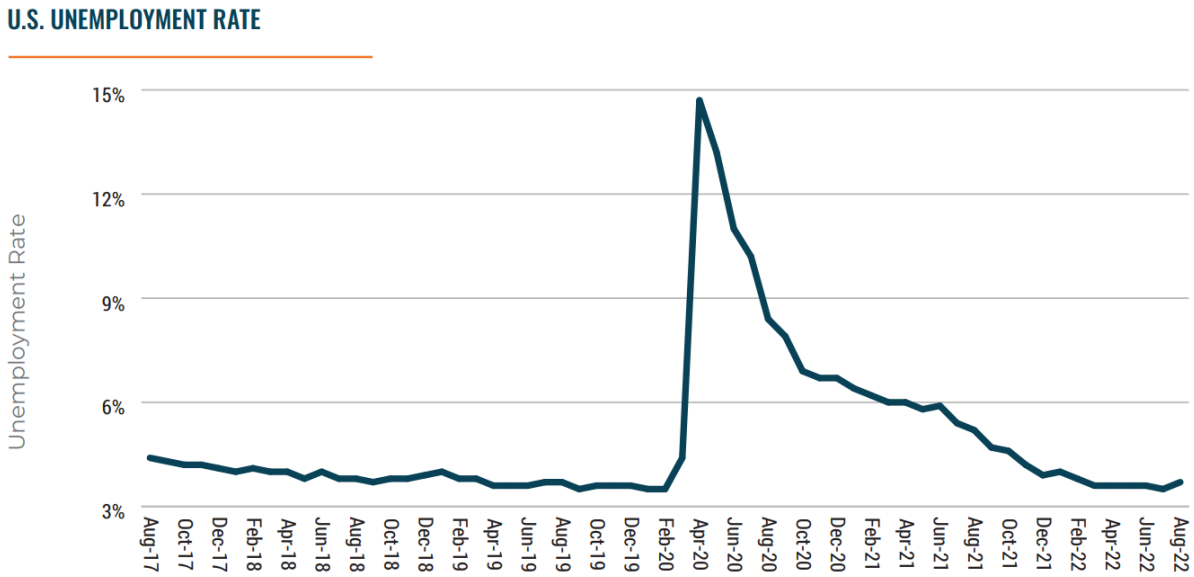
- Inflation may peak, but it will not decelerate rapidly. Until the Fed gets serious about quantitative tightening – sales of the financial assets it previously accumulated – inflationary pressures will most likely persist.

- The potential for a real recession in the nation will increase as the Fed uses quantitative tightening to control inflation and push up real (rather than nominal) interest rates. Doing it sooner rather than later will lessen the depth of any subsequent recession.

- The economic wildcard comes from the growing Federal deficit and massive debt levels. Much of the outcome will depend on how long bond markets tolerate the excessive Federal deficits and growing levels of debt.

Chart 1 is perhaps the best indicator that there was no recession in the first half of 2022, despite the initial GDP estimates. As can be seen on that chart, the unemployment rate shot up during the pandemic shutdown of much of the economy. But by 2022, the unemployment rate was back to pre-pandemic (boom) levels.

Chart 1



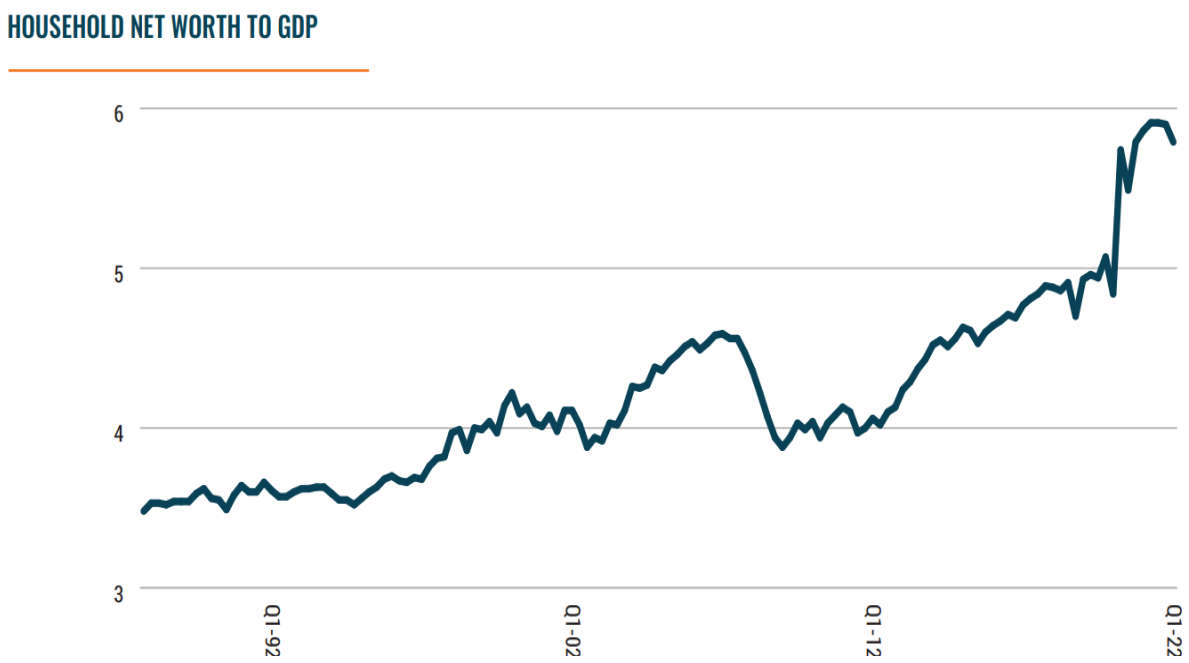
To understand where the United States economy was by fall 2022, it is useful to make a distinction between two kinds of stresses that can occur. One form of stress is a decline in aggregate demand, which gives rise to a typical business cycle. Another form of stress comes from rapidly shifting changes in the *components* of aggregate demand—changes that, in the aggregate, are still expansionary, but nevertheless cause reduced productivity as suppliers struggle to adapt to the shifting patterns of demand. It is the latter situation that the United States was experiencing. Compositional shifts mean the economy can exhibit the seemingly-paradoxical condition of reductions in productivity even as it operates at capacity (i.e., low growth *and* low unemployment).

The rapidly changing pattern of demand was being partially driven by the nation's emergence from the historic COVID-19 pandemic. There was an enormous shift from demand for goods back to demand for services once the nation moved beyond the malady. This shift back towards pre-pandemic patterns of demand came about much to the chagrin of Walmart and Target. They appeared to have been operating under the premise that people were going to continue staying home 23 hours per day judging by the excessive inventories of pajamas and kitchen appliances that ended up sitting in company warehouses.

But the bigger shifts in the structure of demand have been driven by the excessive stimulus the federal government and Federal Reserve put in place in response to the pandemic—and now the backlash as they try to withdraw that stimulus to constrain the predictable side effects. The stimulus resulted in inflation, excessive consumer demand, and bubbly financial markets. As inflation concerns developed, policymakers went from maximum acceleration to maximum braking over a single year, something that would create turbulence in even the healthiest economy.

The U.S. Congress approved $6.1 trillion in fiscal deficit spending in 2020 and 2021, significantly more than the actual losses to the economy from the pandemic. Households, for example, received $2.60 of direct support for every $1 of lost income. This level of borrowing should have caused bond markets to swoon and interest rates to rise sharply, but the Federal Reserve swooped in with $5 trillion in quantitative easing (bond purchasing). These purchases paid for the deficit spending by increasing the nation's money supply by 35%, far and away the greatest short-run expansion of money supply ever seen in the United States.[1] As Chart 2 shows, the ratio of household net worth to GDP soared during the pandemic, creating the wherewithal for a consumption binge.

Chart 2



The consumption binge was also apparent in the rapidly growing U.S. trade deficit as demand spilled over into imports, as shown on Chart 3. While the increased demand for imports produced jobs and activity at California's ports, it also contributed to backlogs in handling ships at those ports, particularly at the Ports of Long Beach and of Los Angeles, and to the general "supply chain" issues. Bottlenecks at the ports were components of the constraints on supply that contributed to inflation, along with such exogenous events such as the war in Ukraine and its effects on world energy prices.

[1]By functionally monetizing the nation's enormous fiscal deficit, the Fed performed what might be the first true experiment in Modern Monetary Theory (MMT)—the expansion of the money supply to cover deficit spending. (MMT proponents believed that deficits and monetary expansions would not produce excess inflation.) As it turns out, budgets without accountability inevitably caused problems.

Chart 3

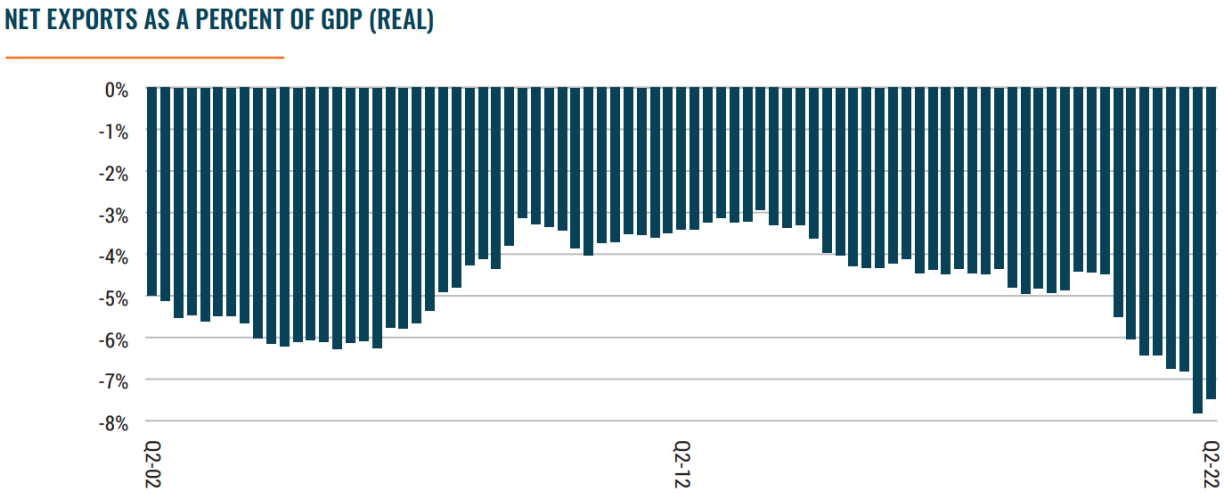
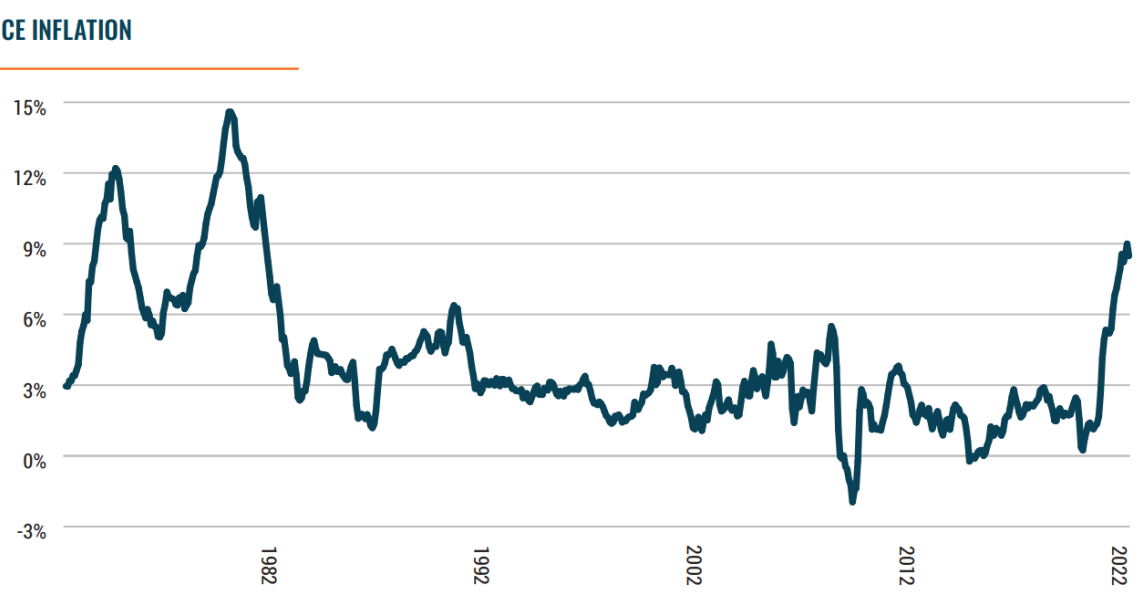


Chart 4



Interest rates on the long-duration end have been pulled up by inflation, while on the short end they have been pushed up by the Fed. While still low from any long-run vantage point (and still negative in real terms) the rate increases nevertheless have started to put significant pressure on rate sensitive sectors such as real estate, some consumer durables, and business investment. Real estate and housing price inflation, for example, began to cool off and – in some areas – reversed.

At this writing, Beacon Economics projects two potential paths for the economy starting in 2023. The first path stems from an assumption of weak Fed action, where fear of a political backlash keeps the Fed from using quantitative tightening at the necessary level. If this scenario

develops, inflation will continue eating into real asset values and incomes, and generally moving interest rates up. Any small shock could cause a recession, or – alternatively – there might turn out to be three or more years of very weak growth, with consumers in a relatively poor financial position at the end of the process.

The second scenario is that the Fed stamps out inflation in the near-term by aggressively reducing its balance sheet. While that approach would drive up interest rates in the short term, cool down financial markets sharply, and possibly create a modest recession in 2023 led by retrenching consumers, the nation would come out of it with a stronger private sector.

Note that both of these scenarios miss the elephant in the room: federal debt. One part of the equation that has not been dealt with by policymakers is the nation's huge federal debt level and the rising burden of carrying that debt given rising interest rates. How long bond markets will give a blank check to the U.S. government for debt issuance is anyone's guess. But at some point bond buyers will become worried, and that point is when politically tough choices about fiscal rebalancing will need to be made.

The California Perspective

California's economy is on the brink of achieving a significant milestone: recovering all the jobs it lost during the pandemic-driven downturn. In March and April 2020, the state's economy shed approximately 2.7 million jobs following the outbreak of the COVID-19 virus. While the jobs lost during the outset of pandemic have recovered nationally and in many other states, California had yet to reach this threshold at this writing but was close to that milestone.

The employment recovery has been uneven across the state at this writing. Inland communities fared better than coastal areas. The Inland Empire had about 5% more jobs than it had prior to the pandemic, while – at the other end of the spectrum – there were still 3% fewer jobs in Ventura County.

California's economic struggles are relatively well understood. Its labor force contracted during the pandemic, and then during the upswing employers struggled to find workers, especially in coastal communities. This point is best illustrated at the regional level. The labor forces in the three regions that have experienced a full jobs recovery – the Inland Empire, Sacramento, and Fresno – are larger than they were prior to the pandemic, while the biggest decline in the labor force has occurred in the three regions with the biggest jobs deficits: Ventura, San Francisco, and Los Angeles.

The primary driver of change in local labor forces is population growth. Over the period from 2019 to 2022, population gains have occurred in inland communities while there have been population losses in coastal communities. The changes across these regions are ultimately driven by affordability. California's relatively affordable inland communities have gained, while its relatively expensive coastal communities have lost population. Among the state's coastal

communities there has been an exodus of lower earning workers who are unable to support the extremely high costs of housing.

Chart 5

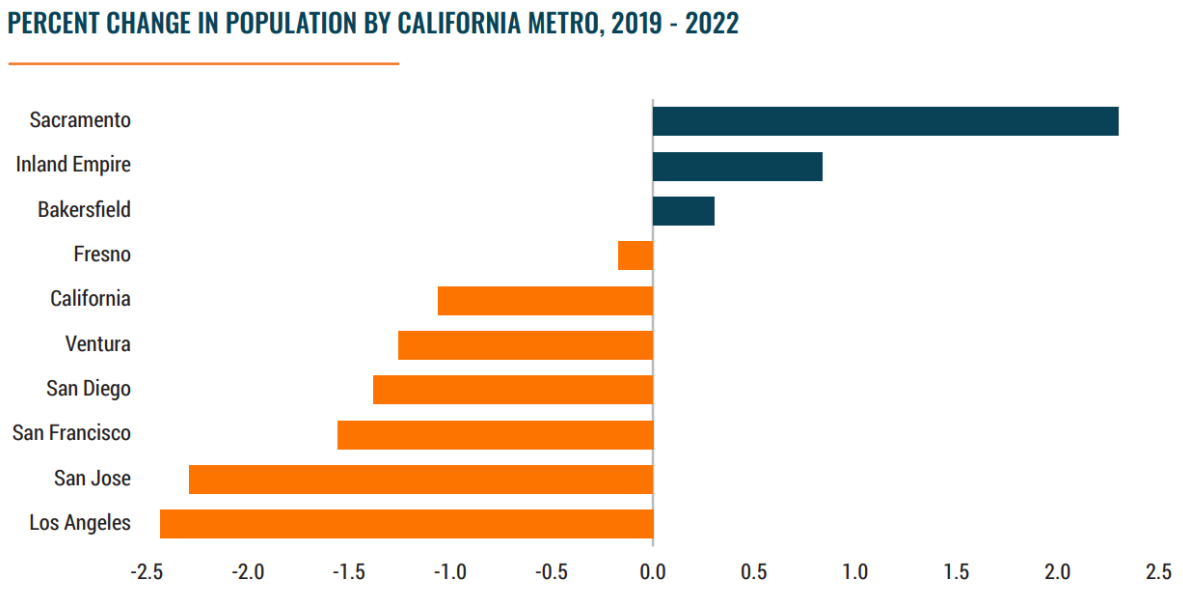
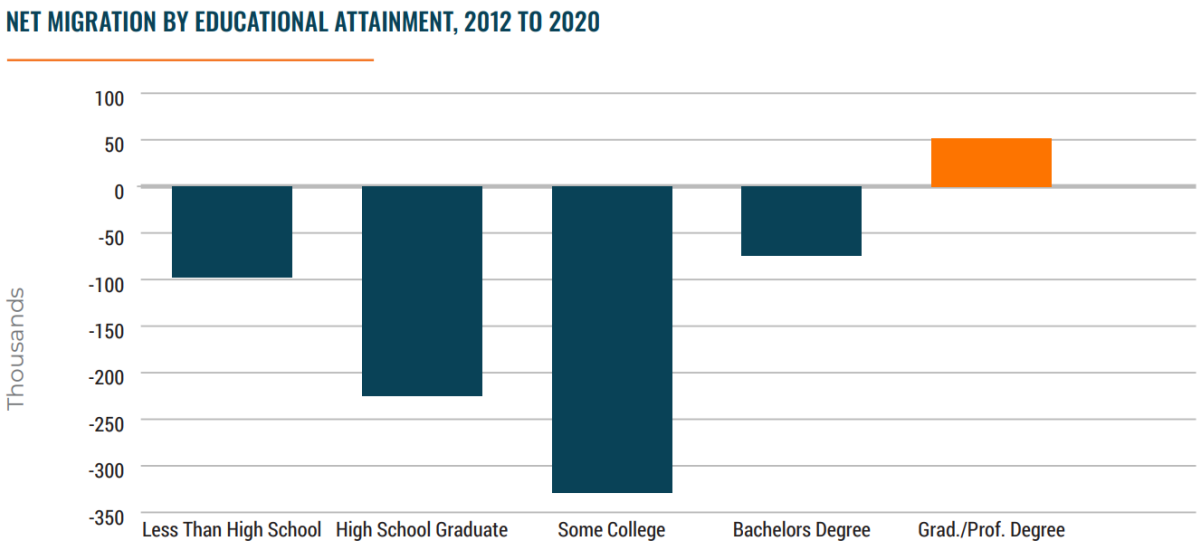


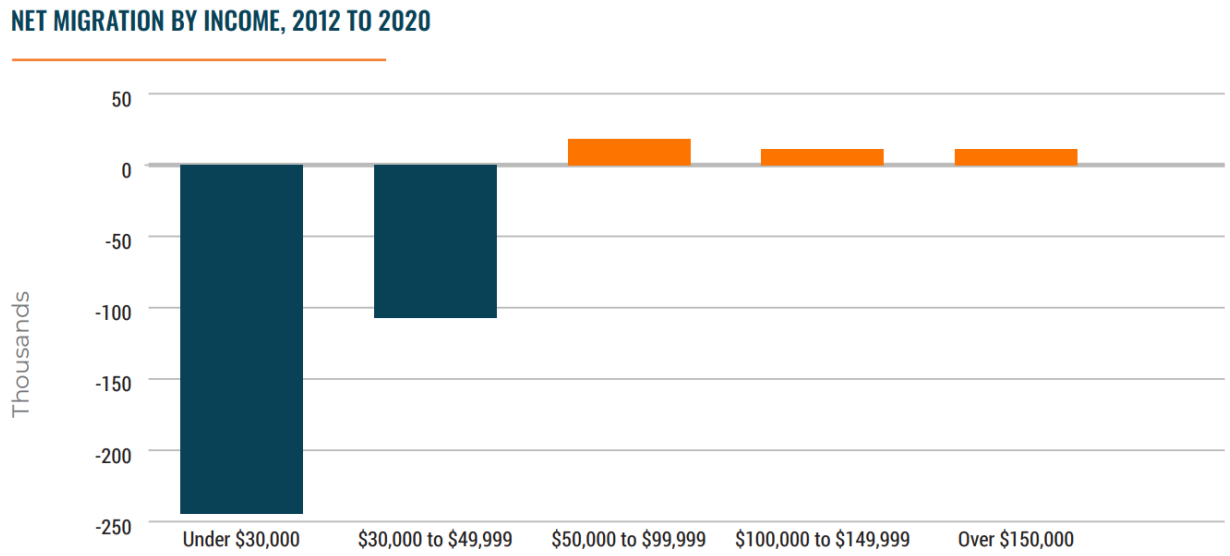
Chart 5



Note: Population over age 25. College students are omitted.

This dynamic has been playing out at the state level for nearly a decade, where there has been an out-migration of lower earning workers and workers with lower levels of formal education, while there has been an in-migration of higher income and higher educated workers. The in-migration of higher-income earners has not been enough to offset the loss of lower-income earners, so that – in total – the state lost population.

Chart 7

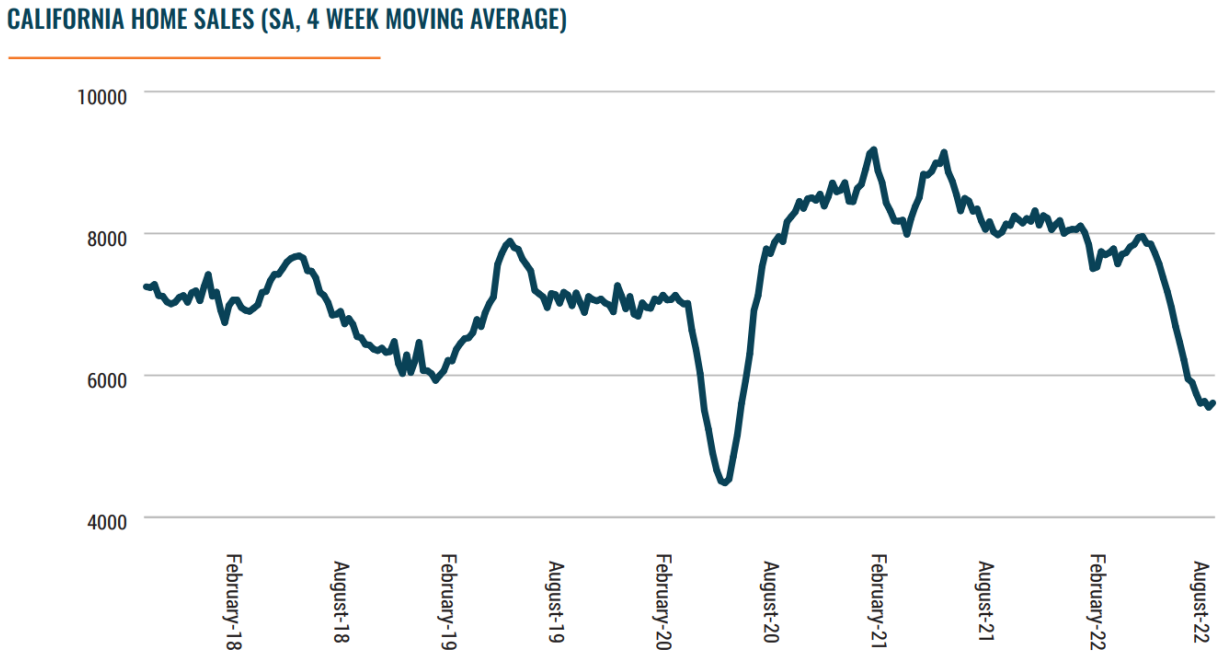


Note: Civilian employed workers with earnings. College students are omitted.

A Housing Slow Down

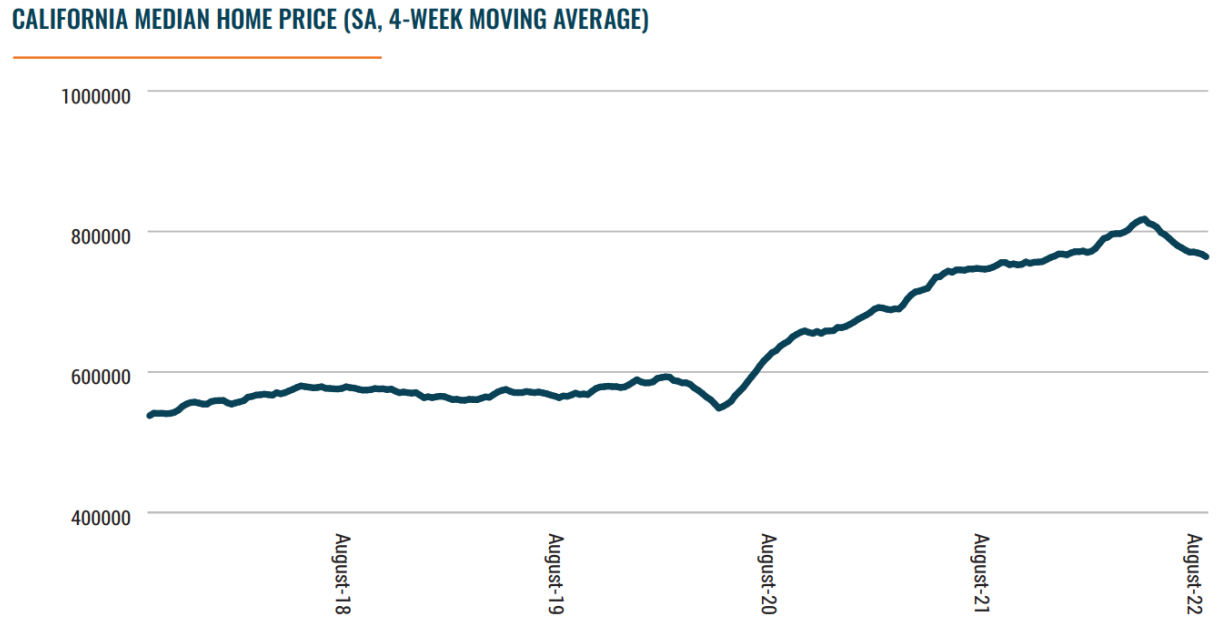
After two years in which California's housing market has gone gangbusters, and home prices in the state increased by 43%, on average, the rising interest rate environment – in addition to stretched prices – led to a major slowdown in 2022. Home sales in the state dropped by about one-quarter in 2022, compared to 2021 levels. Over the 2017-2022, sales were lower only during the outset of the pandemic, when markets temporarily seized up.

Chart 8



The decline in home sales in 2022 is not difficult to understand, given the jump in prices over such a short period of time and rising interest rates. Throughout California, the increase in the cost of a monthly mortgage payment meant that many potential buyers have been swept to the sidelines. When adjusted for inflation, the cost of owning a home at this writing is pushing to levels not seen since 2005. However, unlike the earlier era, contemporary lending standards mean that borrowers have an entirely different level of financial security, and a crash of the market is nowhere in sight – unlike what occurred in the aftermath of the 2008 Great Recession. During that period, there was a wave of foreclosures, abandoned housing projects, and financial turmoil related to mortgage-backed securities.

Chart 9



Finally, Californians have not been able to find relief from high housing prices via the rental market as shown on Table 1. Over 2021-2022, most major markets in the state have seen double-digit increases in rents, with some communities seeing 20% surges, despite state pandemic regulations and various local pandemic-related caps on rent increases and eviction moratoriums. Overall, the pandemic's impact both accelerated and exacerbated the state's long-term housing supply problem.

Conclusion

The outlook for California in the short-term depends heavily on national events, especially monetary policy decisions of the Federal Reserve. Inflation has proven to be a more intractable problem than policymakers initially assumed. A key question is whether the Fed decides to take aggressive action to bring inflation under control quickly or whether it pulls back.

In the longer term, housing cost issues and affordability remain a barrier to state growth. The rise in interest rates has impeded the housing market in the short term, exacerbating the affordability problem as mortgage costs rise. And, as potential homebuyers are squeezed out of the home ownership market, large rent increases have resulted despite pandemic-related regulations.

===

Table 1: Apartment Rent, Q2 2022, California

Market	Value	1 Year % Change
Bakersfield	1,241	17.4
Fresno	1,260	21.7
Sacramento	1,627	14.7
Inland Empire	1,853	20.4
San Diego	2,232	17.5
Ventura	2,303	21.8
Los Angeles	2,377	19.2
California	*2,389*	*17.1*
San Francisco	2,822	11.7
San Jose	2,844	14.7

Chapter 2

Budget, What Budget?
California State Budgeting for 2022-23
In an Era of Flush Reserves

Daniel J.B. Mitchell

Professor-Emeritus, UCLA Anderson School of Management
and UCLA Luskin School of Public Affairs

"*Scarcely a week passes without Gov. Gavin Newsom announcing some new program or expansion of an existing program, such as extending health coverage to more undocumented immigrants, increasing slots for pre-kindergarten care and education, and moving mentally ill homeless people into treatment and housing*."

Columnist Dan Walters[1]

There have been episodes in California budget history in which an atmosphere of fiscal crisis dominated the state political scene.[2] In times past, there were periods in which the governor and legislature couldn't agree on a budget, leading to a crisis in which programs weren't funded until – sometimes after weeks into the new fiscal year – an accord was reached. There were episodes in which severe budget cuts were threatened or imposed. Not surprisingly, these events were generally associated with periods in which the state economy was struggling. And, given the crisis and stalemate, public interest and concern about the state budget was intense. How much do we tax and spend? What kinds of results are we getting from those monies?

Apart from economic recessions, political developments could also trigger budget crises. Perhaps the most dramatic episode occurred in the late 1970s, generally a period of economic expansion, but also the era of the "taxpayer revolt." In that episode, voters used the initiative process to cut local property taxes drastically – Proposition 13 of 1978 – thus requiring the state to jump in and begin draining its resources to bail out local governments and services.

In the current period, divisive politics have dominated the scene, nationally and in many ways locally. The fiscal cycle that produced the 2022-23 state budget started out with an unsuccessful attempt to recall Governor Gavin Newsom. As the fiscal year progressed, San Francisco voters recalled members of their local school board and – soon thereafter – their district attorney. A (second) attempt to recall the Los Angeles County district attorney is underway at this writing. There is an undertow of anger at incumbent office holders.

California has split sharply into "blue" (Democratic-liberal) areas and "red" (Republican-conservative) regions, with the former dominating at the state level. Budgeting is effectively in the hands of Democrats alone; Republicans have no statewide office holders, and Democrats have a supermajority in the state legislature. As a result, political controversies tend to focus on local matters such as crime, homelessness, and lack of affordable housing. These issues are reflected in the state budget but are often not discussed in that context.

In this chapter, we look at the processes and the developments that led to the enactment of the California state budget for fiscal 2022-23, the fiscal year beginning July 1, 2022. We look at budget terminology, methodology, and stages of evolution from initial proposal to the signoff by the governor. And we note that unlike in periods of fiscal distress, the 2022-23 state budget – which is in many ways a dramatic break from the past – has attracted little voter interest.

---

[1]Dan Walters, "Is state biting off more than it can chew?" CalMatters, April 3, 2022. Available at https://calmatters.org/commentary/2022/04/is-state-biting-off-more-than-it-can-chew/.

[2]This chapter was completed in August 2022 and does not include information or developments thereafter.

Budgeting 101

"*Ever since I was a little child, I wanted to be an accountant*."

Never said by anyone

Basic budgeting at the state level is in essence similar to household accounting. So, let's start with a simple example. You likely have a checking account from which you pay your ongoing expenses. Your income goes into that account, and your payments go out. Suppose at the beginning of the year, you had $1,000 in your account and at the end of the year you had, say, $1,200. Lots of transactions – both in and out – occurred in the course of the year. But we can say that net over the year you ran a "surplus" of $200. Note that "surplus" is a flow concept. The surplus has a time dimension, in this case one year.

If you started the year with $1,000 in your checking account and ended with, say, $750, we could say that over the year you ran a "deficit" of $250. If you started with $1,000 and ended with $1,000, we could say you had a "balanced" budget since outflows over the course of the year were matched with inflows. Note that even if your account is balanced over the year, it is unlikely that at every moment in time inflows exactly equaled outflows. The reason you maintain a positive balance in the account is to avoid a temporary situation in which your account falls below zero and becomes overdrawn.

We could refer to the amount of money in your account at any point in time as your "reserves," i.e., the stock of money you had that was potentially available for spending. In the first example, reserves in your checking account at the beginning of the year were $1,000 and at the end of the year were $1,200. Note that there is simple relationship between stocks and flows:

Reserves at the beginning of the year + surplus or deficit during the year = reserves at the end of the year.

This simple terminology should be applied, but often isn't applied, to state and local accounting. For example, suppose in someone's subjective judgment, it was deemed sufficient to allow your checking account balance to fall as low as, say, $400. In sloppy and misleading terminology, it might be said that at the beginning of the year you had a surplus of $600 ($1,000 - $400). Someone might also project, as in the first example, that your reserves would rise to $1,200 by the end of the year. If so, they might even say that you had a surplus of $800 ($1,200 - $800).

Sadly, that kind of sloppy and subjective description of fiscal affairs often occurs in state and local budgeting. It certainly occurs in the case of the California state budget. Note that absent clear definitions, if I tell you there is a surplus in the budget or a deficit in the budget without the clear separation of stocks and flows, you really have no clear idea of what the budgetary picture actually is. Similarly, if I say I am projecting a "balanced budget" without definitions, you have no idea what is being asserted.

In actual practice, state and local governments – including California at the state level – refer to their equivalent of a checking account for ongoing purchases as the "General Fund." But there are myriad funds outside the General Fund that typically have some earmarked revenue source and some designated purpose. It's likely, for example, that you have never heard of the "Rail Accident Prevention Response Fund," the "Illegal Drug Lab Cleanup Account," or the "Film Promotion and Marketing Fund."

On the other hand, you may have a sense that when you buy gasoline for your car, some of the fuel tax you are paying goes to a special fund for transportation purposes such as road maintenance.

Apart from these special purpose funds which the legislature or voters at some point in the past created, there are three savings accounts associated with the General Fund. Essentially, some revenue that would otherwise go into the General Fund is moved by formula into various constrained funds. So, there are reserves connected with the General Fund that are kept outside it. These reserve accounts are the Budget Stabilization Account (BSA) – sometimes called the "rainy day" fund, the Safety Net Account, and the Public School Account.

There are various technical reasons why these savings funds were created and for the particular formulas determining how they are operated. But if you want to know how much the state has in its reserves for the General Fund, you have to sum up the four reserves. If you want to know whether the state is in surplus or deficit over some period, you again need to sum up and combine the surpluses and deficits of the four funds.

Actual Accounts

California has a fiscal year that begins each July 1 and ends on the subsequent June 30, twelve months later. By state constitution mandate, the legislature must enact a budget by mid-June for the next fiscal year. The governor can in principle veto it or make adjustments through a line-item veto, or just sign the budget as enacted by the legislature without change. In the case of the budget for fiscal year 2022-23, Governor Newsom signed the budget as enacted without line-item vetoes. Table 1 shows the result. Let's apply our methodology to the budget he signed.

Our General Fund (checking account) for 2022-23 begins with a reserve of about $22.5 billion and ends with only $7.8 billion, i.e., inflows are expected to exceed outflows to the tune of $14.7 billion. Note that the budget is a forecast of what is expected to happen. It is only after the fiscal year is completed that we will know the actual totals. It is almost certain that the results will deviate from the original projection since the future cannot be precisely foretold.

The enacted budget forecasts that the General Fund will show a deficit of $14.7 billion ($22.5 billion - $7.8 billion). However, as noted earlier, there are three savings funds associated with the General Fund and we have to add them together with the General Fund to determine the total surplus or deficit. As Table 1 shows, when we sum them up, the deficit drops to about $9.5 billion.

Is it a Bad Thing for the state to run a projected deficit of that magnitude? Not necessarily. Note that starting total reserves are over $50 billion and – even with the projected deficit – they are projected to be over $40 billion by the end of the fiscal year. So, there is a substantial cushion projected to remain in reserve despite the deficit.

Even if the economy were to fade during 2022-23 and produce less tax revenue than forecast, starting with a cushion as large as $50 billion would likely prevent any budget crisis from developing during the year. And, as we will see in the next section, there is actually a bigger fiscal cushion available than is shown on Table 1. Still, the state cannot run deficits forever just as you cannot go on forever drawing down your checking account balance. Eventually, you will have nothing left (which would be a crisis).

The Cash View

California, in presenting and enacting its state budget, uses a methodology known as "accrual" accounting. Essentially, under accrual accounting, stocks and flows are attributed to the period and dates to which they "belong." For example, the state income taxes you pay relate to a specific year (typically a calendar year). But they are paid through withholding and filings that don't necessarily actually occur in that year. Under accrual accounting, tax revenue is attributed to the year in which it was due rather than when the payments were made.

There is nothing nefarious about accrual accounting in the abstract. It is widely used in corporate accounting because it gives a better idea of what performance actually was in a given period. However, like any accounting system, it can be manipulated. In the case of state accounting, accrual methodology is whatever the California legislature says it is.

There is an alternative view – cash accounting – which just looks at cash inflows and outflows whenever they occur and without trying to line them up and connect them to particular periods from which they originate. The state controller looks after the state's cash accounts from which civil servant salaries and other bills the state must pay for goods and services are distributed. In theory, it should be possible to reconcile the cash accounts with the accrual accounts, but the state does not do it.[3]

However, the controller's cash accounts are useful for illustrating the large cushion of reserves the state currently has accumulated. As noted in the previous section, the state's General Fund contains a reserve at any point in time, and there are various savings accounts linked to the General Fund. But we have also noted that there are funds outside the General Fund – apart from the savings accounts – and these, too, have cash in them at any point in time. If necessary, because of seasonal flows in and out of the General Fund, the controller can borrow needed cash internally from these other funds. Of course, if too much is borrowed, and the outside funds become filled up with IOUs rather than cash, they won't be able to finance their designated missions.

In budget crisis years, the state – if it starts to run low on cash from internal sources – can borrow externally within a fiscal year from credit markets by issuing short-term securities known as Revenue Anticipation Notes (RANs). And under rare circumstances, it can issue Revenue Anticipation Warrants (RAWs) which cross from one fiscal year to the next.[4] In very rare circumstances – the last time was in 2009 – if the state exhausts its cash and its internal and external borrowing capacity, it can make those individual and entities to which money is owned accept Registered Warrants, essentially IOUs. You might think that handing out IOUs instead of paying cash was a form of "bankruptcy." But unlike local governments, states in the U.S. cannot formally declare bankruptcy in the legal sense of that word.

The state controller looks at all the cash available to pay bills from the General Fund, its associated savings accounts, and other funds outside the general fund. From that total, the controller subtracts any internal borrowing, and comes up with "Unused Borrowable Resources." This sum is cash available for use in meeting immediate bills. Figure 1 shows Unused Borrowable Resources month-by-month for fiscal

[3]There is also some discrepancy between the controller's cash accounts and cash reported by the Department of Finance, a discrepancy which is officially attributed to gaps in timing of when the two agencies become aware of transactions.

[4]The actual administration of state borrowing through RANS and longer-term bonds is handled by the state treasurer. However, RAWs, in the rare instances they are used, are administered by the controller.

years 2020-21 and 2021-22. Note that the latter year in every month had a larger total than the prior year, i.e., the cash cushion was rising. Note also that 2021-22 closed with Unused Borrowable Resources above $70 billion, roughly $20 billion more than the total reserves shown previously on Table 1.

Moreover, Unused Borrowable Resources during fiscal year 2021-22, month-by-month, ran *ahead* of forecasts made at the beginning of that year, as shown on Figure 2. So, not only was there a lot of money in the state's till, there was also more than had been originally anticipated.

California has accumulated that cash cushion in order to assure that projected state expenditures can be paid. Figure 3 shows the ratio of the cushion to disbursements. As can be seen, the cushion, when measured against disbursements, reached an historic high just before the pandemic with a ratio of over one third. The initial year of the pandemic, taxes were delayed in order to assist taxpayers, but expenditures related to the pandemic rose, pulling down the cushion. But by the end of fiscal year 2021-22, the ratio was almost back to its pre-pandemic peak.

The effect of having a large cushion can be seen by noting in Figure 4 that real disbursements (i.e., disbursements adjusted for inflation) normally have fallen in recession years. They dropped when the dot-com boom of the late 1990s turned to a bust (and led to the recall of Governor Gray Davis). They dropped when the housing bubble burst and the Great Recession occurred. But they were largely sustained when the pandemic-related recession occurred due to a combination of greater-than-expected revenues and to federal supports. And with the initial uncertainty due to the pandemic at least mainly resolved, real spending took a big jump in fiscal year 2021-22 as part of Governor Newsom's expansive agenda of new and enlarged programs.

Now that we have a basic understanding of state budgeting and budgetary history, let's examine what occurred during fiscal 2021-22 as the budget for 2022-23 was being formulated.

Summer 2021: Focusing on the Recall

"*The Republicans seeking to remove Gavin Newsom from office say the Democrats control, and have ruined, California. Democrats reply that Republicans are determined to seize control of California, so they can transform it into a Trumpian nightmare… These pro- and anti-recall messages fundamentally mislead… Our state today is governed both by living Democrats and dead Republicans… The recall is a tool of our system of direct democracy, first advanced by Republican governor Hiram Johnson in 1911, and used aggressively ever since by the GOP*."

Columnist Joe Mathews[5]

Although the budget for fiscal year 2020-21 was initially expected to be in crisis thanks to the pandemic recession that began in March 2020, actual budgetary results in terms of revenues were surprisingly robust, setting the stage for a surprisingly expansionary budget for 2021-22. But the big news over the summer of 2021 had little to do with the budget, although the budget is arguably the most important

[5]Joe Mathews, "Modern California should stop operating by outdated rules," *Orange County Register*, August 20, 2021. Available at https://www.ocregister.com/2021/08/20/modern-california-should-stop-operating-by-outdated-rules/.

piece of legislation the state adopts. The big news of that period was the gubernatorial recall, with the election set to take place on September 14, 2021.[6]

Pro-recall yard sign

The recall was begun by a group of political gadflies who might never have succeeded in obtaining sufficient signatures had it not been for a court decision allowing additional time for signature gathering. And that court decision might not have occurred, or might have been reversed, if the governor – or the Democratic Party more generally – had challenged it effectively. But for whatever reasons, there was no challenge. Once it became apparent that the recall was likely to take place, the governor at first either ignored it or discussed it only when pushed by reporters.[7] Or he referred to the recall only inferentially.[8]

Still, given the fact that former Governor Gray Davis had been successfully recalled in 2003 and replaced by movie actor Arnold Schwarzenegger, pretending the recall didn't exist was not a sustainable strategy. By May 2021, Newsom had developed the two key themes of his recall campaign. First, the recall effort was characterized as a Republican scheme.[9] Second, the economy was depicted as "*roaring back*" under the Newsom administration after the pandemic-induced recession, in part because of the campaign to make vaccinations available allowed a reopening of economic activity.[10] At the same time, Newsom made it clear to state Democratic politicians that he didn't want any of them to offer themselves as candidates in the recall.[11]

To understand the Newsom strategy, note that a recall election has two questions. The first is a yes-no question on whether the governor should be recalled. The second is to choose from a menu of names of candidates to replace the governor IF "yes" on the first question receives a majority. Voters can choose to vote on both questions or choose to vote on either one of the two.

---

[6]The background of the recall is included in the budget chapter for 2021-22: Daniel J.B. Mitchell, "Like Nothing Anyone Could Recall: Evolution of the California Budget for 2021-22." *California Policy Options 2022*. Available at https://archive.org/details/ca-budget-2021-22.

[7]For example, the governor denied that a relaxation of pandemic rules was due to the recall in answer to a reporter's question on January 25, 2021: https://www.youtube.com/watch?v=jQFy5diti_A. Or, in replying to an interviewer's question, he said that the recall was motivated by pre-pandemic issues such as immigration and diversity: https://www.youtube.com/watch?v=PxP9fDPpzrA. In response to a news conference question, he attributed the recall to extremists, although he said others signed the petition out of frustration with the pandemic's impact: https://www.youtube.com/watch?v=gwx6p6mY1aw.

[8]For example, the governor said he would not be distracted by "*partisan political powergrabs*" without specifically naming the recall on March 9, 2021: https://www.youtube.com/watch?v=wuGeTNtSkWg.

[9]Litigation to block Newsom from making the argument that the recall was a Republican effort predictably failed. Courts give wide latitude to political discourse in election campaigns.

[10]See Newsom's comments on May 24, 2021: https://www.youtube.com/watch?v=i0G25oyF4TU.

[11]In the 2003 Davis recall, the Democratic lieutenant governor (Cruz Bustamante) became a candidate. His candidacy may have allowed some Democratic voters who didn't like Davis to vote "yes" on the first question because they had a notable Democrat as an alternative.

Anti-recall banner

Even if a voter selects "no" on the first question, the second question is available. But by shooing known Democrats off the menu of the second question, Newsom effectively reinforced the idea that the entire recall was a Republican plot to achieve what the GOP could not achieve in a normal election.[12] Voting "yes" was equated with endorsing President Trump.[13]

Given that the recall election was turned into a partial repeat of the 2020 presidential election, the demographics of the 2020 California voters are instructive. It is important to note that because non-citizens are not eligible to vote and because those under 18 are also ineligible, the voter profile in California – as opposed to the general state population – skews toward older Whites, who made up a slim majority of voters in 2020, as shown on Figure 5.

Screenshot from Newsom TV ad against recall

Hispanics and, to a lesser extent Asians, are underrepresented when voters are compared to the full population. Despite the fact that nationally White non-Hispanic voters were more likely to favor Trump than other groups, we know that in the end California voted overwhelmingly for Biden. And, in fact, exit polling in California suggested that Biden was narrowly favored by White non-Hispanics.[14] So, once the 2021 recall was turned into a repeat of the 2020 Trump/Republican popularity contest, it is not surprising that the recall vote would end as other recent California elections have, i.e., a strong implicit vote for Newsom.

---

[12]If the governor is recalled, the candidate who replaces him could have received fewer votes than the governor. Suppose "no" received 49% of the vote and the top replacement candidate received less than 49%. It could be argued that it is unfair under that circumstance to replace the governor. There was in fact unsuccessful litigation on those grounds to halt the recall election.

[13]President Biden – in his endorsement of Newsom (see below in the text) – said to California voters that "*the leading Republican running for governor [in the recall] is the closest thing to a Trump clone that I have ever seen in your state.*" Source: Dan Merica, "Biden links Elder to Trump on eve of California recall," CNN, September 14, 2021. Available at https://www.cnn.com/2021/09/13/politics/newsom-biden-california-recall/index.html.

[14]See CNN data at https://www.cnn.com/election/2020/exit-polls/president/california. The national data are at https://www.cnn.com/election/2020/exit-polls/president/national-results.

Table 2 summarizes the outcome of the recall election. Note first that on the first question, "no" received over 61 percent of the vote, thus making the results of the second question irrelevant. The 6-to-4 victory for Newsom was in line with his margin in the 2018 election over Republican John Cox. It was also in line with Democratic Governor Jerry Brown's margins in the 2014 election over Republican Neel Kashkari.

Thus, it appears that Newsom was successful in making the election a Democrat-versus-Republican/Trump contest. Fears that Democrats would not turn out for the recall turned out to be unwarranted. Big name national Democrats – up to and including President Biden and former President Obama – urged a "no" vote on the recall.[15]

Of all the voters who participated in the recall, 99.6 percent chose to answer the first question. In contrast, only a little over 57 percent of voters who participated in the recall chose among the candidates offered in the second question. Table 2 also shows the results of the (irrelevant, as it turned out) second question. Two Democrats appear on the table, but neither were professional politicians. Kevin Paffrath – generally characterized as YouTube influencer – got about a tenth of the votes on the second question, arguing for such things as a pipeline to bring rainy Midwest water to drought-stricken California. Brandon Ross, another designated Democrat, had little more than a website as a campaign and got around five percent by virtue of party affiliation.

The "big" vote getter in the second question was conservative radio host Larry Elder who put out several video ads and got over 48 percent of the question-2 vote.[16] But note with only a little more than 57 percent of voters in the recall deciding to choose among the candidates via question 2, all the totals shown on Table 2 should be reduced by multiplying by them by 0.57.[17] Thus, no recall candidate – including Elder - showed any potential for beating Newsom in 2022 when he would be running for reelection in a normal contest.

Perhaps with that lesson in mind, none of them chose to run in the June 2022 gubernatorial primary.[18] Some may have run in the recall in order to get publicity for commercial reasons or to enhance their standing in future local campaigns.[19] There was some question after the recall as to whether any

---

[15]From the left wing of the Democratic Party, there were ads by Senators Elizabeth Warren and Bernie Sanders. (Sanders is technically an independent but caucuses with the Democrats in the U.S. Senate.)

[16]A collection of video ads for various candidates can be found at https://archive.org/details/jenner-recall-5-4-21. Candidate Larry Elder put out a number of these ads. It was unclear initially whether he had properly completed the paperwork to be on the ballot, but he ultimately succeeded in getting his name included. Early on, the fact that transgender celebrity Caitlyn Jenner was running created predictable media attention, but few actual votes. After the initial buzz, her campaign fizzled and was reported to be in debt. Actress Jane Fonda apparently considered running but apparently dropped the idea after some polling and consultations. Debates among some of the candidates can be seen at https://archive.org/details/vaccine-lottery-prize-7-1-21/CA+RECALL+DEBATE+8-4-21.mp4 and https://archive.org/details/vaccine-lottery-prize-7-1-21/California+governor+debate+8-19-2021.

[17]The Public Policy Institute of California (PPIC) poll for September 2021 was pretty accurate in predicting the outcome. See https://www.ppic.org/publication/ppic-statewide-survey-californians-and-their-government-september-2021/. So, too, was the UC-Berkeley IGS Poll: https://escholarship.org/uc/item/1g8696rv.

[18]Shortly after the recall election, the UC-Berkeley IGS Poll indicated that Newsom would be way ahead in the regular 2022 election against several of the Republican candidates who ran in the recall, were they to choose to run in the June 2020 primary. See https://escholarship.org/uc/item/8s37k0k0.

[19]For example, Republican State Assemblymember Kevin Kiley later became a candidate for a congressional seat in the 2022 elections and received an endorsement from former President Donald Trump.

professional Republican officeholder would want to run in the regular 2022 gubernatorial contest, given the showing of Newsom in the recall. However, in February 2022, Republican State Senator Brian Dahle entered the nonpartisan top-2 primary.

The fact that it was clear Newsom would have no opposition from significant Democrats in 2022 did more or less assure that the ultimate second place finisher (who would then go on to the November 2022 general election) would be a Republican.[20] Nonetheless, running in the primary can be a route to obtaining publicity for individuals even while losing, just as it may have been the motivation for some of the recall candidates.[21]

As noted, the budget for 2021-22 that was in progress and then was enacted in the midst of the recall was not itself much mentioned in the recall. Newsom's TV ads which carried the "*roaring-back*" theme touted some of the monies that were going for things voters liked. He could announce enlargements of the Cal Grant program for California college students and expansion of health care coverage. But his opponents did not overtly want to oppose such things. Instead, they either called generally for tax cuts or pointed to problems such as crime, homeless encampments, and school closings and asserted they would do better in solving them. But in many respects, voters tended to see such issues as local, i.e., the kind of things that mayors, city council members, and school boards should be fixing.

Still, there were points of possible vulnerability for Newsom. There was some concern that there might be electricity blackouts during the summer – such blackouts were a background factor in the 2003 Davis recall – and the governor offered incentive payments for energy conservation.[22] Crime might be a local matter, but a burglary at a PlumpJack liquor store – the company founded by Newsom – served to emphasize the issue.[23] The governor had to pull his children out of a summer camp which was discovered not to be following state masking guidelines. Perhaps predictably in contemporary political campaigns, a last-minute allegation was made that Newsom's wife, Jennifer Siebel Newsom, sought to convey a bribe in the Harvey Weinstein sexual assault scandal, an allegation which she totally denied.[24]

There were continuing issues with state programs that were not performing at expected standards. These deficiencies were concerns for which Governor Newsom did have some responsibility. Problems persisted at the Employment Development Department (EDD) which had paid out fraudulent unemployment payments estimated at $20 billion. EDD – at the same time – was slow in processing legitimate claims of unemployed Californians. Payments offering rent relief to eligible individuals were also delayed. Persons expecting rebates for purchasing electric cars encountered long delays in processing and payment, although encouragement of electric cars was a Newsom objective.

---

[20]Unlike nonpartisan primaries at the local level, even if one candidate in the primary gets a majority, the top two candidates proceed to the general election.

[21]Michael Shellenberger, an independent (no party preference) author who argues against environmental alarmism, ran in the primary and received about four percent of the vote (third place) and some fleeting publicity.

[22]There were some brief blackouts in summer 2020, and some arguments about the state moving too fast into renewable power, given variability in sunshine and wind conditions.

[23]Former California U.S. Senator Barbara Boxer, age 80, was assaulted and robbed in Oakland in another high-profile crime during the summer of 2021.

[24]Meghan Roos, "Rose McGowan Alleges Gavin Newsom's Wife Tried to Bribe Her Before Harvey Weinstein Scandal Broke," *Newsweek*, September 10, 2021. Available at https://www.newsweek.com/rose-mcgowan-alleges-newsoms-wife-tried-bribe-her-before-harvey-weinstein-scandal-broke-1628021.

There was evidence of fraud in obtaining financial aid for community college attendance. And there continued to be disagreement over what should be done with the high-speed rail line that was under construction. Legal battles over mandates that public employees in various categories be vaccinated continued, although court challenges to the governor's COVID-related emergency powers were largely unsuccessful. COVID cases ticked up in the summer of 2021, although – as Figure 6 shows – not at a level comparable to the initial surge in 2020. Had the surge that later occurred in December 2021 and into early January happened earlier, perhaps the outcome of the recall might have been affected.

In the end, although the state faced significant economic and social challenges, the recall ended up – as noted – largely being a vote on Trump/Republicans vs. the incumbent leadership of the state. Trump himself declared before the recall election that it was "*probably rigged*."[25] The September 2021 election ended up being a sharp contrast with the Davis recall of 2003 when the focus then was the budget crisis and the failure of the state to deliver a regulatory mechanism that could avoid electricity blackouts. In the 2021 recall, the state budget simply was not an issue. And there were no widespread blackouts.

The Post-Recall Period

"*I think voters made the right decision. It's better to stay with someone who you know what they're going to do, rather than someone who comes in wacky and is changing everything around*."

Former Governor Arnold Schwarzenegger[26]

One effect that the recall had was to delay decisions on sensitive matters. Thus, although Democrats in the legislature were concerned with the EDD's fraud and payment-delay problems, hearings on the EDD were deferred until after the recall. The legislature passed bills that overrode local zoning laws, bills which homeowners generally disliked, but the governor didn't have to sign or veto them until after the recall election. He later signed them, sparking a campaign to put something on the ballot that would repeal the state's override of local zoning.[27]

Newsom might have imposed mandatory water use restrictions – never popular – during the recall period to deal with the ongoing drought. But he relied instead on voluntary conservation efforts which seemed to have had only a modest effect. In October after the recall, however, he declared a drought emergency. Newsom vetoed a bill which would have aided the United Farm Workers (UFW) union but only after the recall election.[28] But he also signed popular bills such as spending on climate change and wildfire prevention.[29]

---

[25]Eric Ting, "Trump, without evidence, already claiming Gavin Newsom recall election is 'rigged,'" *SFGATE*, September 8, 2021. Available at https://www.sfgate.com/gavin-newsom-recall/article/Trump-recall-voter-fraud-rigged-Newsom-ballot-mail-16442942.php.

[26]Quoted in Jordan Williams, "Schwarzenegger says Californians 'made the right decision' not to recall Newsom," *Politico*, September 16, 2021.

[27]An initiative was filed that would have banned the state from overriding local zoning, but sufficient signatures were not obtained to put it on the 2022 ballot. Proponents indicated they would try again for 2024.

[28]The UFW staged a march in protest to the super-expensive French Laundry restaurant where Newsom had dined in seeming contradiction to COVID guidelines.

[29]Newsom vetoed a bill that would have made it more difficult to gather signatures for initiatives, referendums, and recalls through paid signature gathering firms. The bill would have banned per-signature piece rate payments

Even after the recall, the governor seemed reluctant to mandate in-person school reopenings and instead left that decision largely to local control. In larger school districts in particular, teacher union constraints were a major element in limiting reopenings and in defining exactly what kind of instruction a reopened school would provide. Eventually, with prodding from President Biden over the need to keep schools open, a deal with the California Teachers Union was reached in late December 2021. But by that time, as Figure 6 shows, there was a major surge in cases due to new variants of the original virus, and a state mask mandate was imposed.

There appeared to be a major loss in student enrollment as a result of Zoom schooling, particularly in some big districts such as Los Angeles and San Francisco. In the latter district, several school board members were eventually recalled – in part due to slow reopening and in part due to a variety of other local issues.[30] However, falling enrollment posed a potential future budgetary problem for school districts since their funding from the state normally depends on average daily enrollment.

As for the recall itself, the California secretary of state estimated that the cost of administering the election was around $200 million.[31] That estimate does not include costs incurred by the various replacement candidates and by the governor. Candidate John Cox reportedly spent $36.80 for each vote he obtained.[32] As might be expected, after having experienced a highly-publicized recall that ultimately did not remove the governor, voters were reportedly in favor of recall election reforms.[33] But no changes have been made at this writing to the recall procedures.

The Budget Cycle for 2022-23 Begins

"*With major new investments to tackle the greatest threats to our state's future, the California Blueprint provides a model for the entire country of how we can continue providing short-term relief while investing in longer-term solutions that will benefit workers, businesses and families for years to come*."

Governor Gavin Newsom[34]

for commercial signature gatherers. (They could be paid by the hour but absent a piece rate it is doubtful that they would expend much effort in getting signatures.)

[30]The school board spent substantial time debating about school namings and about the fate of a Depression-era mural which the board appeared to misunderstand, rather than focusing on school reopenings. There was also a question of admission standards for a special high school and anti-Asian statements by one board member.

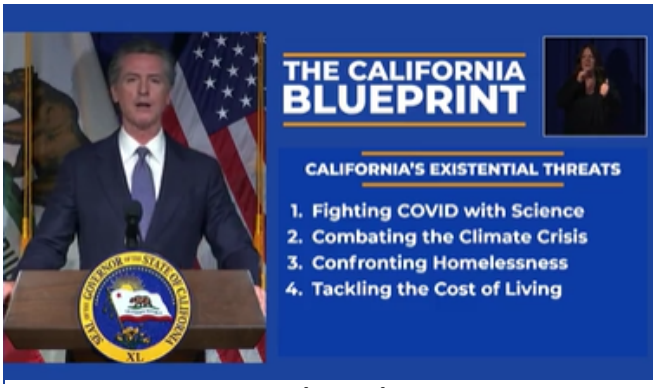
[31]John Myers, "California recall election cost $200 million, top elections official says," *Los Angeles Times*, February 3, 2022. Available at https://www.latimes.com/california/story/2022-02-03/california-recall-election-cost-200-million-dollars.

[32]Dustin Gardiner, "Here's how much California's recall candidates spent per vote," *San Francisco Chronicle,* February 3, 2022. Available at https://www.sfchronicle.com/politics/article/Here-s-how-much-California-s-recall-16829480.php.

[33]Mark Baldassare, "Testimony: Californians' Views of Recall Reforms and the 2022 Election," *Public Policy Institute of California*, February 1, 2022. Available at https://www.ppic.org/blog/testimony-californians-views-on-recall-reforms-and-the-2022-election/.

[34]News release, January 10, 2022. Available at https://www.gov.ca.gov/2022/01/10/governor-newsom-releases-california-blueprint-to-take-on-the-states-greatest-existential-threats-and-build-on-historic-progress/.

Although the governor is required by the state constitution to send a budget proposal to the legislature in early January, there are practices that have grown up around that requirement. Typically, in mid-November before the January proposal, the Legislative Analyst's Office (LAO) prepares a budget outlook publication. The analysis by LAO is sometimes described as a "workload budget." It is an estimate of the revenue inflows and spending outflows that would occur *if* there were no changes in policy.



Governor Presents the Budget: Jan. 10, 2022

In contrast, the governor's budget will contain estimates based on any proposals that governor has for changing tax laws, for new programs, and for cuts in existing programs. The governor's budget may also differ from the LAO estimates if there are differences in the economic outlook as seen by the LAO and the Governor's Department of Finance and on how these differences will affect revenues and spending. Governors generally hold a news conference to unveil their budgets, although it is not unusual for elements of the proposal to be leaked beforehand, perhaps to gauge legislative and public reaction.

Governor Newsom's budget unveilings from the start of his administration have differed substantially from those of his predecessors. The previous governor, Jerry Brown, would generally appear with a few cardboard graphics on an easel, talk about the budget in broad terms, and take reporters' questions for perhaps 25-30 minutes. He would then turn the podium over to his budget director for detailed questions.

Newsom, in contrast, appears with fancy electronic slides, and goes through the budget in great detail without notes. His January 2022 budget presentation, including questions and answers, ran on for two hours and fifty minutes! In essence, he memorizes the budget and presents it from memory, a *tour de force* that no other governors have matched (or would necessarily have wanted to match).[35]

A Look at the Numbers

Table 3 compares the LAO (November 2021) workload budget with the governor's January 2022 budget proposal for fiscal year 2022-23. Note that both budgets are forecasts of a fiscal year that would not start until July 1, 2022 and would end on June 30, 2023. So, both are forecasts over a roughly year and a half period. Many things can happen over a period of that length including non-economic events such as the Russia-Ukraine War (which didn't start until late February 2022). The course of the pandemic was an added source of uncertainty.

Note that the COVID Omicron-variant surge (Figure 6) did not start until after the LAO projections appeared. Although that surge ended in February, a new surge began in April. Both surges seemed to be

[35]The tendency of Governor to make lengthy presentations of the budget and other matters (such as COVID statistics) from memory is sometimes attributed to a coping mechanism stemming from his childhood dyslexia. The January 2022 budget presentation can be seen at https://archive.org/details/covid-tests-arriving-for-schools-1-4-2022-short/newsom+1-10-22+budget.mp4.

trending toward more infectiousness but less severe health outcomes. But it remained unclear whether some new variant might emerge that was both more infectious and more harmful.

In broad terms, the LAO and the governor were in the same ballpark in terms of starting reserves. The LAO was somewhat more bullish on the revenues that would come in during 2022-23. The governor proposed additional spending beyond what the workload budget suggested. Although the LAO doesn't include the Public School Reserve in its workload estimates, Table 3 indicates that with no policy changes, the state would have run a modest surplus. But with the governor's expenditure increases, the state would run a deficit. The "swing" between the LAO surplus and the governor's deficit is roughly $25 billion, reflective of the governor's various spending objectives.

Loose Language

When the governor released his budget proposal in January, he talked about a $45.7 billion "surplus." And when the LAO reviewed his proposal, it asserted that the "surplus" was in fact only $29 billion.[36] News accounts simply reported these numbers without providing any definitions or questions. The fact is – as we have discussed earlier – neither figure provides useful information other than the vague idea that the state has a lot of money on hand. Neither corresponds with the simple flow estimates shown on Table 3. Both in the end are someone's estimate of what can be prudently spent on new programs or program expansions.

January Omissions: Single-Payer Health Insurance

Of course, how much should be spent and what is prudent will vary with the observer. One of the big political issues that arose after the budget presentation in January was the lack of a budgetary move toward a "single-payer" health insurance system. The "single-payer" phrase is vague; there are various versions of single-payer found around the world. But the broad idea is that the government would create an insurance program for everyone that would replace private insurance and existing government programs.

Costing out such a system is complicated but will always produce huge numbers because the revenue required, and the payments made, are the entire health bill of the state. Often forgotten is that the taxes that would have to be collected would substitute for private insurance premiums that then don't have to be paid. Similarly, the spending replaces spending by the various private and other insurers. Put another way, single payer takes already-existing inflows and outflows and puts them into the budget. It doesn't necessarily make the flows bigger.

Nonetheless, the existing patchwork system of employer-provided insurance, individually-purchased insurance, and government programs such as Medicare, Medi-Cal (Medicaid), and Veterans' insurance, has been in effect for years.[37] A single program replacing these other programs, would be different in

[36]The governor's assertion is on page 1 of the official budget summary available at https://www.ebudget.ca.gov/2022-23/pdf/BudgetSummary/FullBudgetSummary.pdf. The LAO's assertion is on page 1 of its official budget overview at https://lao.ca.gov/reports/2022/4492/2022-budget-overview-011322.pdf.

[37]Single-payer is sometimes described as "Medicare for All." Those proponents using that label seem unaware that Medicare – government insurance for those over 65 and the disabled – is gradually being privatized through the encouragement of private "Medicare Advantage" plans provided by private insurers under contract with the federal government.

detail from any one of them. There are bound to be winners and losers among participants. And, of course, private insurers would be losers.

So, the politics of creating such a system are immensely complex. It is difficult to assure voters that the new plan would be better than whatever plan they currently have, even if they are not especially enamored with their current plan. No state has successfully done it.

Governor Newsom – if pushed – will say that such a system is a long-term goal. But he certainly didn't propose it in his budget for 2022-23, preferring instead to expand health coverage to the uninsured incrementally, using existing arrangements. An independent attempt to enact single-payer failed in the State Assembly in late January 2022. Not surprisingly, proponents of single-payer were greatly annoyed.

January Omissions: Dealing With Gann

Apart from the omission of single-payer, the January 2022 budget proposal omitted another element, dealing with the so-called "Gann Limit" on state revenue.[38] The Gann Limit – formally the "State Appropriations Limit" (SAL) – caps allowable revenue based on inflation and population growth. It was enacted by voters in 1979 and subsequently modified in a later election. When revenues exceed the limit for two consecutive years, the excess funds have to be split between tax refunds and school spending.

The governor estimated in January that the Gann Limit had been hit but said he would propose a solution when he provided a modification of his budget in May, the "May Revise." Because of ballot-box budgeting by voters, there are earmarks of funding for schools based on revenues. Revenues above the Gann Limit can create an anomalous situation in which an extra dollar of revenue above the Limit ends up requiring refunds and school spending by more than a dollar. Thus, dealing with Gann is complicated. But in the short run, it incentivizes creation of various rebate programs which keep the state from hitting the Limit.

Budget Evolution and the Forecasting Challenge

Table 4 provides a look at the evolution of the 2022-23 budget. Note that the January 2022 version and all subsequent versions assume less revenue and less spending in nominal terms (and thus in real terms) than in 2021-22. There may have been concerns that the economy, and thus the tax base, would slow and, at the same time, expectations that some of the COVID-related spending might decrease assuming the pandemic abated. In fact, as Table 5 shows, estimates of the three major taxes – the personal income tax, the sales tax, and the corporate tax – that supply the general fund brightened over the period from January until the 2022-23 budget was finally enacted.[39]

[38]Howard Jarvis and Paul Gann successfully promoted Proposition 13 of 1978, which drastically cut local property taxes, required supermajorities in the legislature for new taxes, and created other tax restrictions. Gann followed up in 1979 with Proposition 4 which capped revenues. When Prop 4 triggered rebates in the late 1980s, the public school establishment responded with Proposition 98, which created formulas protecting state spending on K-14 education. A still later proposition modified the Gann Limit so that it did not become an issue again until the peak of the dot-com boom. The dot-com bust, and the later Great Recession, took it off the table. But by fiscal 2022-23 it became an issue again.

[39]The three major taxes supply about 95 percent of General Fund revenue.

The brightened assumptions developed despite the fact that in the half year from the initial proposal to actual enactment, the national economy had two consecutive quarters of negative real GDP growth – something usually considered a mark of recession. But economic data were contradictory. Unemployment remained very low, both nationally and at the state level. Reports and complaints about labor shortages continued.

Inflation rose during that same half year, as shown on Figure 7 for California, despite efforts by the Federal Reserve to raise interest rates and slow the economy down. New weekly claims for unemployment insurance in California remained at the levels seen during the pre-pandemic boom. In short, forecasting tax revenues for 2022-23 revenues was especially challenging. Would there be a boom, a bust, or something in between?

Legislative Consideration

Once the governor's January 2022 budget message was received, fiscal action switched to the legislative branch. Hearings began to be held. Some of the governor's proposals were rejected or went nowhere; for example, a gas tax "holiday" never happened. The LAO begins to crank out numerous analyses of specific items in the budget proposal's many elements. In addition, information continued to arrive on revenues and expenditures for the current budget year. The fact that revenues were running ahead of projections can suggest to legislators that there is room for expansion of existing programs and, perhaps, introduction of new ones.

During the recall election campaign, as noted, there was little said about budgeting. That public disinterest in budgetary matters continued into calendar 2022, since no fiscal crisis was at hand. There continued to be conflict over pandemic masking in K-12 schools. The Ukraine War led to calls from the governor for divesting state pension funds from Russian assets. (Dealing with that issue was complicated by the fact that the market for such assets dried up due to the War.)

There was controversy about the K-12 math curriculum and whether the proposals for math education were degrading standards for reasons of perceived equity. Introduction of ethnic studies into the K-12 curriculum was another area of debate. The governor pushed for Hollywood movie-makers to return filming to California from states that had passed anti-abortion and/or anti-gay laws.

Crime and inflation (especially gas prices) remained issues. Homelessness and encampments as an issue continued to bubble and was often connected in the public mind with crime.[40] The governor proposed CARE Courts which would make it easier to require treatment of mentally ill persons which – again – connected in the public mind with homeless individuals and with crime. Opinion polling indicated that public perceptions of K-12 education, the biggest item in the state budget, were becoming more negative, both as a long-term trend and, in the short-run, because of COVID.[41] All of these issues had

[40]For example, at Union Station in Los Angeles, union-represented maintenance staff protested due to attacks from homeless individuals residing in the station.

[41]See the UC-Berkeley IGS polls of February 24, 2022 and February 25, 2022. Available at https://escholarship.org/uc/item/0669t7s7 and https://escholarship.org/uc/item/1gz0n3nx. See also the PPIC poll of April 2022. Available at https://www.ppic.org/publication/ppic-statewide-survey-californians-and-education-april-2022/.

some budgetary implications, either on the spending side, or the tax side, or both. But they were not discussed in that context, but more as social issues.

Table 6 provides a look at public opinion at a time when the governor was preparing his May Revise budget and compares it to the 2010 gubernatorial election year when there was a major budget crisis and the impact of the aftermath of the Great Recession was severe. Jobs and the economy and the budget were top concerns.

Voters were not even asked about the budget in 2022 because there was no sense of any crisis. Taxes were included in both surveys (which were taken around the time income taxes had to be filed). In both, there were voter concerns about taxes, although it is unclear whether voters were differentiating state from federal taxes. There is some tendency for concern about taxes to be higher among higher-income persons (who are in higher tax brackets and pay the bulk of the state personal income tax).[42]

Housing affordability wasn't on the 2010 list of issues, but it was in 2022. In 2010, the Great Recession and the housing bust caused a fall in home prices. But by 2022, there had been another period of rapidly rising housing costs, although possibly a peak and even a decline had occurred in some areas. It was estimated that the California population had fallen over two years and had increased only moderately since 2010. One consequence was the loss of a California congressional seat. There was a sense that high house prices and rents were an important factor in the short-term population loss and longer-term slow population growth.[43]

The May Revise

"*…We're paving the California Way forward to prosperity and progress for all. With historic investments, we're doubling down on our formula for success and making sure no one is left behind – supporting working families and businesses, tackling climate change, expanding health care access, making our communities safer and more…*"

Governor Gavin Newsom[44]

Shortly before the release of the May Revise budget proposal, Governor Newsom released his first campaign ad for 2022. It depicted him walking among redwoods and referring to the regeneration of plant life after wildfires as illustrative of "*the California Way*." The ad closes with a voice-over saying "*Gavin Newsom – courage through crisis*." The implication was that whatever happens, Newsom would

[42]Tabulations by income for 2022 are available at https://escholarship.org/uc/item/5dh4z90s. Note that since respondents in the 2022 poll were given 15 concerns to consider rather than 12 in 2010, their choices of important issues tend to be more diluted and thus to have lower percentages. Federal tax cuts during the Trump era put a cap in tax deductions for such things as property taxes (the SALT cap), thus adversely affecting some taxpayers in states such as California with high property values. Attempts to reverse those provisions in Congress were unsuccessful.

[43]Although there was some exit from high housing cost areas during the pandemic as firms allowed working from home, most of the moving attributed to that change went to other areas of California.

[44]May Revise news release, May 13, 2022. Available at https://www.gov.ca.gov/2022/05/13/governor-newsom-presents-300-7-billion-blueprint-paving-the-california-way-forward/.

be a leader on whom to count (presumably, as during the pandemic challenge).[45] Republican opponent Dahle's ads focused on crime and the failure of Newsom's California Way.[46]

The Process

Presentation of the May Revise, May 13, 2022

The governor, in another marathon presentation (two hours and twelve minutes!), ticked off programs in his May Revise budget proposal for inflation "relief" (rebates), wildfires, climate change, homelessness, water and electricity infrastructure, education, crime, expanded health insurance coverage, etc. On the tax side, the most notable proposal was decreased taxes on legal marijuana to discourage a still-flourishing black market.[47]

But as in January, the governor proposes but the legislature considers. There is no actual budget until the legislature enacts a budget and the governor signs it, perhaps with some line-item vetoes. At the macro level, as seen on Table 4, both forecast revenues and projected expenditures rose relative to January 2022, but the net result was a reduced projected deficit for the 2022-23 year and larger total reserves. Of the big three state taxes that provide the bulk of the state's revenue, the added revenue, as shown on Table 5, came mainly from the corporate tax and the personal income tax. The optimistic tax forecast stemmed mainly from what was already showing up in revenues for 2021-22, also shown on Table 5.

Enactment

Because Democrats dominate the legislature, reconciling the May Revise with the legislature's proposal was largely done by the legislative leaders and the governor in closed door meetings. Eventually, a semi-final budget was enacted by the mid-June constitutional deadline and a more complete modified deal was reached with the governor in late June in time for the start of the 2022-23 fiscal year. What were termed gas tax refunds in the new budget were really based on household income, not on actual gasoline usage or even on car ownership.

Overall, the final enacted version looked much like the May Revise. Since it was the product of a deal with the Democratic legislative leaders, there were no line-item vetoes by the governor. As in past years, when the final budget was in place, unlike with the January and May proposals, there was no elaborate

[45]The Newsom ad can be seen at https://archive.org/details/newsom-5-1-22-ad-redwoods/Newsom+5-1-22+ad+-+Redwoods.mp4.
[46]Dahle ads can be seen at https://archive.org/details/newsom-5-1-22-ad-redwoods/Dahle+ad+How+we+can+win.+Dahle+for+California+Governor+5-13-22.mp4; https://archive.org/details/newsom-5-1-22-ad-redwoods/Dahle+ad+Newsom+has+failed+us+5-13-22.mp4; https://archive.org/details/newsom-5-1-22-ad-redwoods/Dahle+ad+THE+FAILED+CALIFORNIA+WAY+5-13-22.mp4.
[47]The May Revise presentation can be seen at https://archive.org/details/newsom-5-1-22-ad-redwoods/newsom+5-13-22+May+revise.mp4.

presentation and no fanfare. Within a few days, a summary appeared quietly on the Department of Finance website. Shortly thereafter, a supplement with more details on each program also quietly appeared on the website.

Into the New Fiscal Year

"'Cha-ching! You just received a deposit.' Global inflation. Rising costs. It's hard out there and we know it. So, we're giving you $9.5 billion back. MILLIONS of Californians– 23 million to be exact – will benefit from up to $1,050, as soon as October!"

News release announcing governor's signing of the 2022-23 budget[48]

Unlike periods of budget crisis, except for the immediate period after the January and May budget proposals, there was little public attention given to the preparation of the state budget of 2022-23. More attention when the final budget was enacted was being given to speculation as to whether Governor Newsom sees himself as a candidate for president, if not in 2024, then in 2028. Although he denied any such interest, the governor has engaged in such national attention-getting activities as running a TV ad in Florida denouncing that (red) state's governor and posting on the Trumpian Truth Social media site.[49] He also signed a treaty-like international agreement on climate issues with the prime minister of New Zealand, looking more like a head of state than a state governor.[50]

Meanwhile, challenges that predate Newsom's 2018 election to the governorship persist. There are programs at the state and local level aimed at homelessness, but the problem visibly continues. The high cost of housing and rents seems to be a factor in the estimated drop in California's population and slow population growth before the drop. A shovel has yet to be turned on a major state water project that has been pushed in various forms by the last three governors due to political gridlock.

The state seems not to have reached a consensus on whether to be tough on crime or to try alternative reform measures. K-12 and community college enrollment has fallen and there seems to be some public disillusion with the schools. Drought conditions persist in the west, but so far there doesn't seem to be a taste for strong mandates or sharp water price increases to reduce usage. For every perceived problem, there is a program (or programs) with a fund allocation in the 2022-23 budget, but not necessarily an appetite for analysis as to whether the programs work. In short, the budget - with its large reserves and absence of crisis - allows public and political attention to wander away from state fiscal policy.

The fact that there is one-party dominance at the state level tends to reduce the kind of political competition that can be healthy, and which characterized the period of rapid growth in California from the end of World War II until the early 1990s. With the Republican Party tied to Trump in ways that alienate the median voter in California, that kind of competition seems unlikely to return to Sacramento

[48]The news release of June 30, 2022 is available at https://www.gov.ca.gov/2022/06/30/governor-newsom-signs-budget-putting-money-back-in-californians-pockets-and-investing-in-states-future/.
[49]The Florida video ad can be seen at https://archive.org/details/newsom-7-1-22-guns/Newsom+Florida+Freedom+ad+-+July+4th.mp4. The Truth Social post/video can be seen https://archive.org/details/newsom-7-1-22-guns/newsom+8-5-22+Truth+Social+video.mp4.
[50]The signing ceremony can be seen at https://archive.org/details/newsom-5-1-22-ad-redwoods/newsom+5-27-22+Deal+on+climate+with+New+Zealand.mp4.

in the foreseeable future. Hopes that the state's nonpartisan top-2 primary system would allow alternative competition from independent candidates have not been realized.

The resulting political vacuum in California leaves direct democracy (ballot measures) to fill the void, as Table 7 illustrates. The November 2022 ballot will have only one item put there by the legislature for voters to consider: a proposition strengthening abortion rights which is really a way of protesting the U.S. Supreme Court decision ending *Roe v. Wade*. Two competing propositions deal with gambling – both reflecting clashing interest groups – seem guaranteed to produce an expensive and confusing advertising campaign.[51]

Regulation of kidney dialysis centers is on the ballot – as it has been several times before – and is really part of a union organizing campaign in such centers. A tax earmarked for certain environmental and wildfire-related purposes – something the legislature could itself have enacted but didn't (perhaps for good reasons) – is on the ballot.[52] And finally, something the legislature did enact – a ban on flavored tobacco products that appeal to teens – is on the ballot because an interest group didn't like what the legislature did.

There is nothing particularly desirable about having a budget crisis of the type that emerged from the Great Recession of 2008 or from the dot-com bust of 2001. But at least those crises drew public attention toward key elements of state fiscal policy. Overall, how much are we taxing and spending? Are we getting good results from that money? Absent such attention, the sense that California is adrift with more programs than solutions is likely to continue.

[51]Ads related to the two gambling propositions can be seen at https://archive.org/details/false-attacks.
[52]An ad favoring the tax measure can be seen at https://archive.org/details/newsom-5-1-22-ad-redwoods/Ad+for+top+bracket+income+tax+surcharge+for+wildfires.mp4.

Table 1: Budget Enacted for FY 2022-23

$ millions	Estimate as of July 2022
GF Reserve-Start	$22,450
Revenue & Transfers	219,707
Expenditures	234,366
Surplus/Deficit	-14,659
GF Reserve-End	7,791
Public School Reserve	
Start	7,290
End	9,514
Surplus/Deficit	2,224
Safety Net Reserve	
Start	900
End	900
Surplus/Deficit	0
BSA (rainy day)	
Start	20,320
End	23,288
Surplus/Deficit	2,968
Total Reserves	
Start	50,960
End	41,493
Surplus/Deficit	-9,467

GF = General Fund

Source: California Dept. of Finance. Data available at https://www.ebudget.ca.gov/2022-23/pdf/Enacted/BudgetSummary/SummaryCharts.pdf.

Table 2: Gubernatorial Recall Election Results (Sept. 14, 2021)

Total voting in recall election		*12.9 million*
Should Gavin Newsom be recalled?		
Total voting on recall question	100.0%	12.8 million
Yes	38.1%	
No	61.9%	
If Newsom is recalled, which candidate should replace him?		
Total voting on candidate question	100.0%	7.4 million
Radio host Larry Elder (R)	48.4%	
YouTube influencer Kevin Paffrath (D)	9.6%	
Former San Diego mayor Kevin Faulconer (R)	8.0%	
Cosmetic surgeon Brandon Ross (D)	5.3%*	
Former candidate for governor John Cox (R)	4.1%	
State Assemblyman Kevin Kiley (R)	3.5%	
Celebrity Caitlyn Jenner (R)	1.2%	
Board of Equalization member Ted Gaines (R)	0.7%*	
Former congressional representative Doug Ose (R)	0.4%**	

*Campaign largely consisted of a website.

**Dropped out of the race after heart attack and endorsed Kiley.

Source of voting data: California Secretary of State, Statement of Vote. Available at https://elections.cdn.sos.ca.gov/sov/2021-recall/sov/complete-sov.pdf.

Table 3: LAO Workload Projections and Governor's Initial Budget for 2022-23

$ millions	LAO 2022-23 Nov. 2021	Governor 2022-23 Jan. 2022
GF Reserve-Start	$29,195	$23,650
Revenue & Transfers	202,288	195,719
Expenditures	197,059	213,127
Surplus/Deficit	5,229	-17,408
GF Reserve-End	34,424	6,242
Public School Reserve		
Start	na	6,663
End	na	9,725
Surplus/Deficit	na	3,062
Safety Net Reserve		
Start	900	900
End	900	900
Surplus/Deficit	0	0
BSA (rainy day)		
Start	16,825	19,303
End	20,917	20,868
Surplus/Deficit	4,092	1,565
Total Reserves		
Start	na	50,516
End	na	37,735
Surplus/Deficit	na	-12,781
Total Reserves Excluding Public School Reserve		
Start	*46,920*	*43,853*
End	*56,241*	*28,010*
Surplus/Deficit	*9,321*	*-15,843*

LAO = Legislative Analyst's Office; na = not available; LAO does not project the Public School Reserve.
Source: Department of Finance: https://www.ebudget.ca.gov/2022-23/pdf/BudgetSummary/SummaryCharts.pdf; LAO: https://lao.ca.gov/reports/2021/4472/fiscal-outlook-111721.pdf

Table 4: Governor's and Legislature's Budget Projections

$ millions	Governor 2021-22 July 2022	Governor 2022-23 Jan. 2022	Governor 2022-23 May 2022	Legislature 2022-23 June 2022	Governor 2022-23 July 2022
GF Reserve-Start	38,334	23,650	15,425	20,200	22,450
Revenue & Transfers	227,061	195,719	219,632	222,700	219,707
Expenditures	242,944	213,127	227,363	235,500	234,366
Surplus/Deficit	-15,883	-17,408	-7,731	-12,800	-14,659
GF Reserve-End	22,450	6,242	7,694	7,400	7,791
Public School Reserve					
Start	3,081	6,663	7,293	7,293	7,290
End	7,290	9,725	9,519	9,519	9,514
Surplus/Deficit	4,209	3,062	2,226	2,226	2,224
Safety Net Reserve					
Start	450	900	900	900	900
End	900	900	900	1,500	900
Surplus/Deficit	450	0	0	600	0
BSA (rainy day)					
Start	14,287	19,303	20,325	20,325	20,320
End	20,320	20,868	23,283	23,300	23,288
Surplus/Deficit	6,033	1,565	2,958	2,975	2,968
Total Reserves					
Start	56,152	50,516	43,943	48,718	50,960
End	50,960	37,735	41,396	41,719	41,493
Surplus/Deficit	-5,192	-12,781	-2,547	-6,999	-9,467
Reserves/Expenditures	21.0%	17.7%	18.2%	17.7%	17.7%

Source: Department of Finance: https://www.ebudget.ca.gov/budget/2022-23/#/BudgetSummary; https://www.ebudget.ca.gov/budget/2022-23MR/#/BudgetSummary; https://www.ebudget.ca.gov/budget/2022-23EN/#/BudgetSummary. Also https://sbud.senate.ca.gov/sites/sbud.senate.ca.gov/files/Legislative%20Version%20Summary%20Final.pdf.

Table 5: General Fund Revenue for 2022-23 as Projected by Governor During Calendar 2022

$ Millions	January	May	July
Fiscal Year	**2022-23**	**2022-23**	**2022-23**
Personal Income	130,269	137,454	137,506
Sales	32,208	33,991	33,992
Corporation	23,732	38,464	38,464
Total Revenue	195,719	219,632	219,707
Note: Expenditures	*213,127*	*227,363*	*234,366*
Fiscal Year	**2021-22**	**2021-22**	**2021-22**
Personal Income	120,873	136,397	136,497
Sales	30,866	32,750	32,750
Corporation	32,863	46,395	46,395
Total Revenue	196,669	226,956	227,061
Note: Expenditures	*210,030*	*249,229*	*242,944*

Source: See Table 4.

Table 6: Opinion of Registered Voters on Most Important Issues: 2010 and 2022

Field Poll* Mar. 23, 2010		Berkeley-IGS Poll** Apr. 14, 2022	
Jobs & economy	69%	Housing Affordability	31%
State budget deficit	68	Homelessness	29
Education	60	Crime & public safety	23
Health care	51	Gas prices	21
Taxes	47	Climate Change/Environment	17
Illegal immigration	37	Taxes	15
Water	36	Jobs & economy	12
Gas prices & energy	29	Education & schools	12
Crime & prisons	28	Immigration	11
Environment Protection	26	Income inequality	9
Reform constitution	25	Wildfires	7
Global warming	23	Health care	7
		Coronavirus (COVID)	4
		Race relations	2
		Traffic	2

*Most important in gubernatorial election of 2010. Poll available at https://web.archive.org/web/20111012205330/http://field.com/fieldpollonline/subscribers/Rls2334.pdf.

**Which one or two issues are most important for state to address (out of 15 given issues)? Poll available at https://escholarship.org/uc/item/7sn293xs.

Table 7: Ballot Measures for November 2022

Proposition 1: Reproductive (Abortion) Rights - Constitutional Amendment placed on ballot by the legislature.

Proposition 26: AUTHORIZES NEW TYPES OF GAMBLING. INITIATIVE CONSTITUTIONAL AND STATUTORY AMENDMENT. Allows federally recognized Native American tribes to operate roulette, dice games, and sports wagering on tribal lands, subject to compacts negotiated by the Governor and ratified by the Legislature.

Proposition 27: ALLOWS ONLINE AND MOBILE SPORTS WAGERING. INITIATIVE CONSTITUTIONAL AMENDMENT AND STATUTE. Legalizes online and mobile sports wagering, which currently is prohibited, for persons 21 years and older. Such wagering may be offered only by federally recognized Indian tribes and eligible businesses that contract with them. Individuals placing bets must be in California and not located on Indian lands. Imposes 10% tax on sports-wagering revenues and licensing fees. Directs tax and licensing revenues first to regulatory costs, then remainder to: 85% to homelessness programs; 15% to nonparticipating tribes.

Proposition 28: PROVIDES ADDITIONAL FUNDING FOR ARTS AND MUSIC EDUCATION IN PUBLIC SCHOOLS. INITIATIVE STATUTE. Provides additional funding for arts and music education in all K-12 public schools (including charter schools) by annually allocating from state General Fund an amount equaling 1% of required state and local funding for public schools. Allocates greater proportion of the funds to schools serving more economically disadvantaged students.

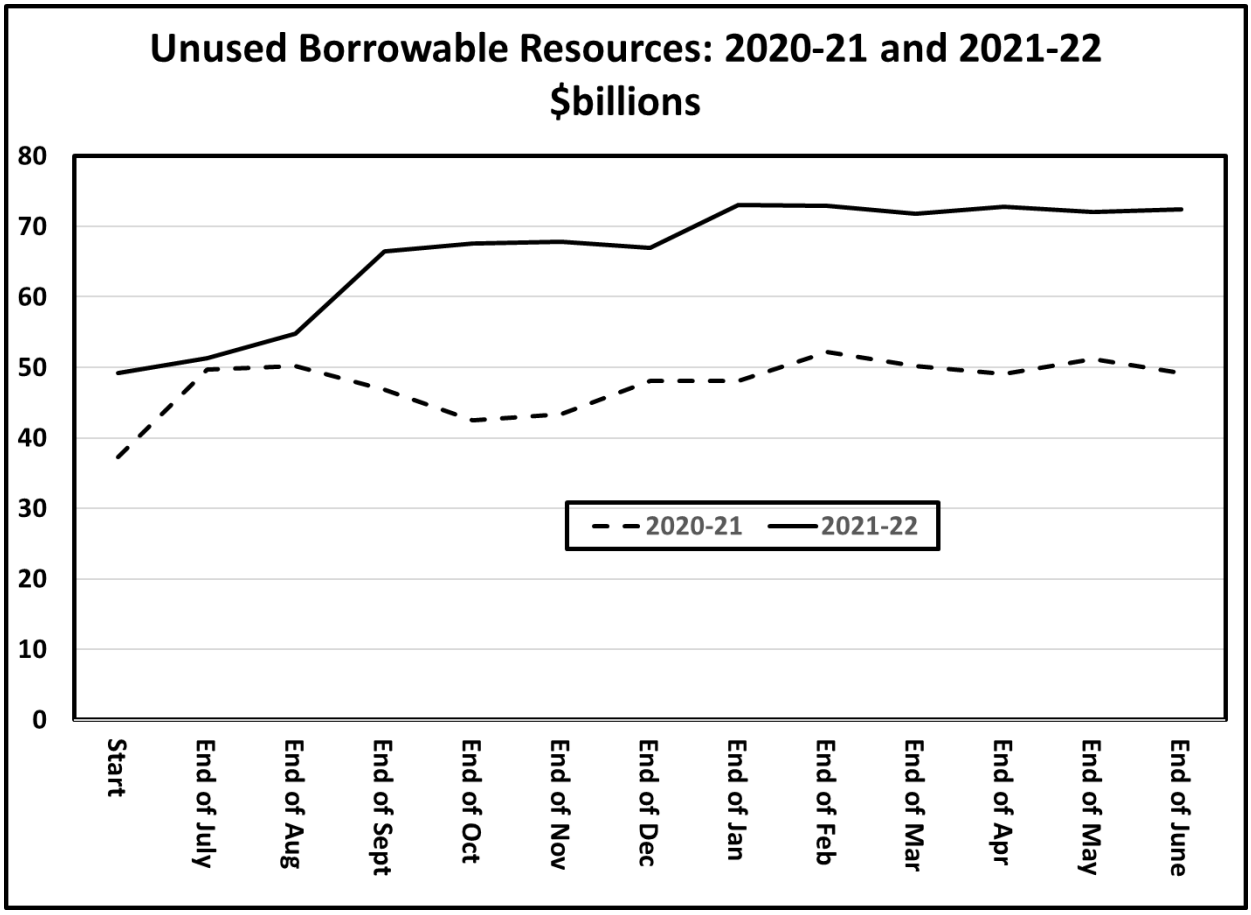
Proposition 29: REQUIRES ON-SITE LICENSED MEDICAL PROFESSIONAL AT KIDNEY DIALYSIS CLINICS AND ESTABLISHES OTHER STATE REQUIREMENTS. INITIATIVE STATUTE. Requires physician, nurse practitioner, or physician assistant, with six months' relevant experience, on site during treatment at outpatient kidney dialysis clinics; authorizes exemption for staffing shortage if qualified medical professional is available through telehealth.

Proposition 30: PROVIDES FUNDING FOR PROGRAMS TO REDUCE GREENHOUSE GAS EMISSIONS BY INCREASING TAX ON PERSONAL INCOME OVER $2 MILLION. INITIATIVE STATUTE. Increases tax on personal income over $2 million by 1.75% for individuals and married couples and allocates new tax revenues as follows: (1) 45% for rebates and other incentives for zero-emission vehicle purchases and 35% for charging stations for zero-emission vehicles, with at least half of this funding directed to low-income households and communities; and (2) 20% for wildfire prevention and suppression programs, with priority given to hiring and training firefighters.

Proposition 31: REFERENDUM CHALLENGING A 2020 LAW PROHIBITING RETAIL SALE OF CERTAIN FLAVORED TOBACCO PRODUCTS.

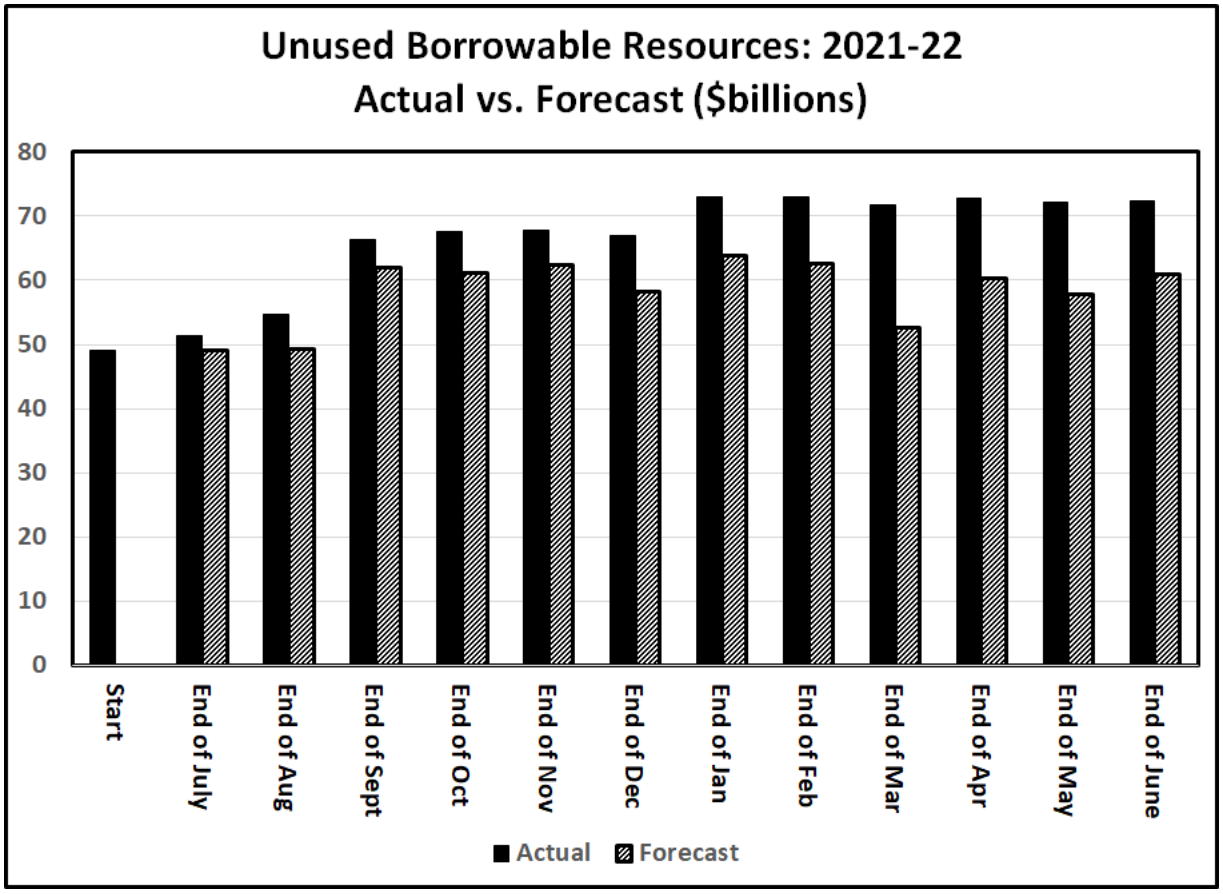
Source: Secretary of State at https://www.sos.ca.gov/elections/ballot-measures/qualified-ballot-measures.

Figure 1:



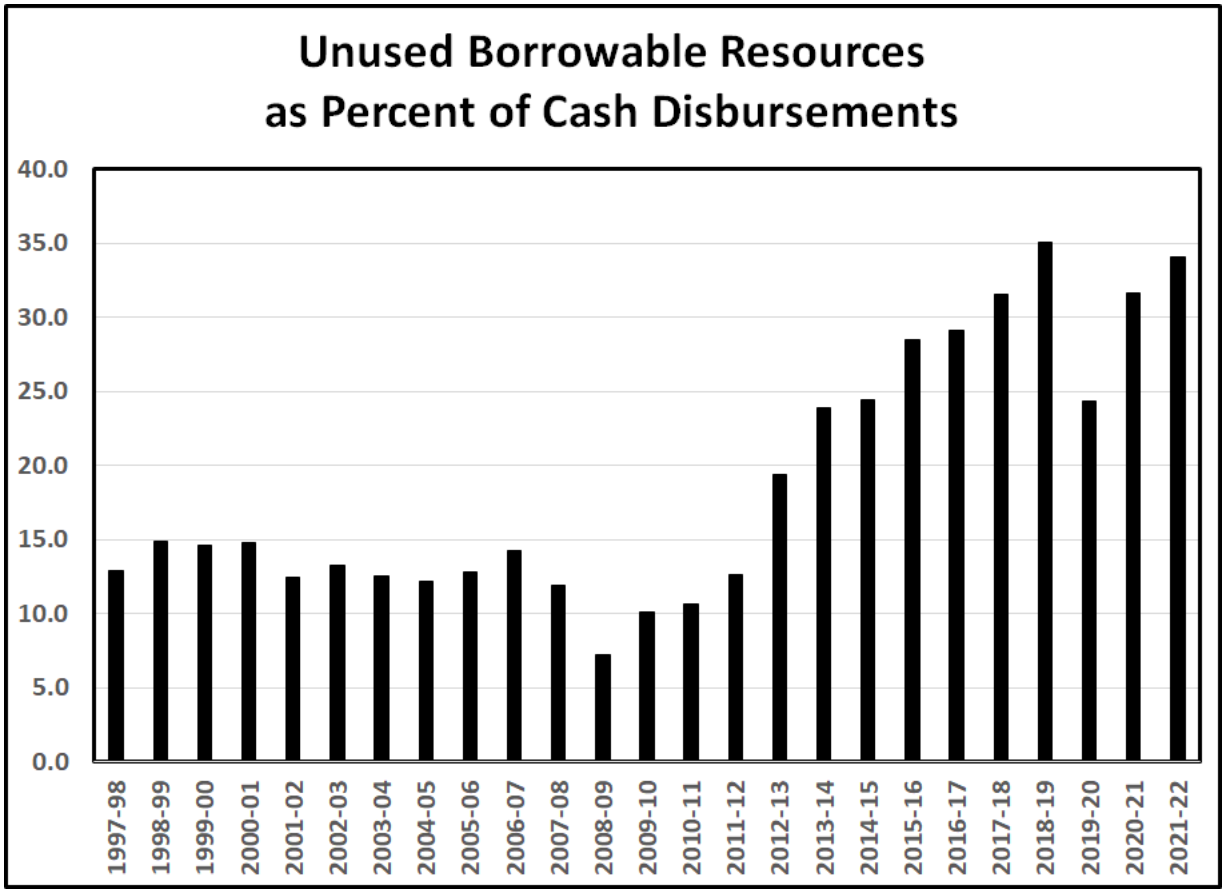
Source: Monthly cash statements of the state controller. Available at https://sco.ca.gov/ard_state_cash.html.

Figure 2:



Source: Monthly cash statements of the state controller. Available at https://sco.ca.gov/ard_state_cash.html.

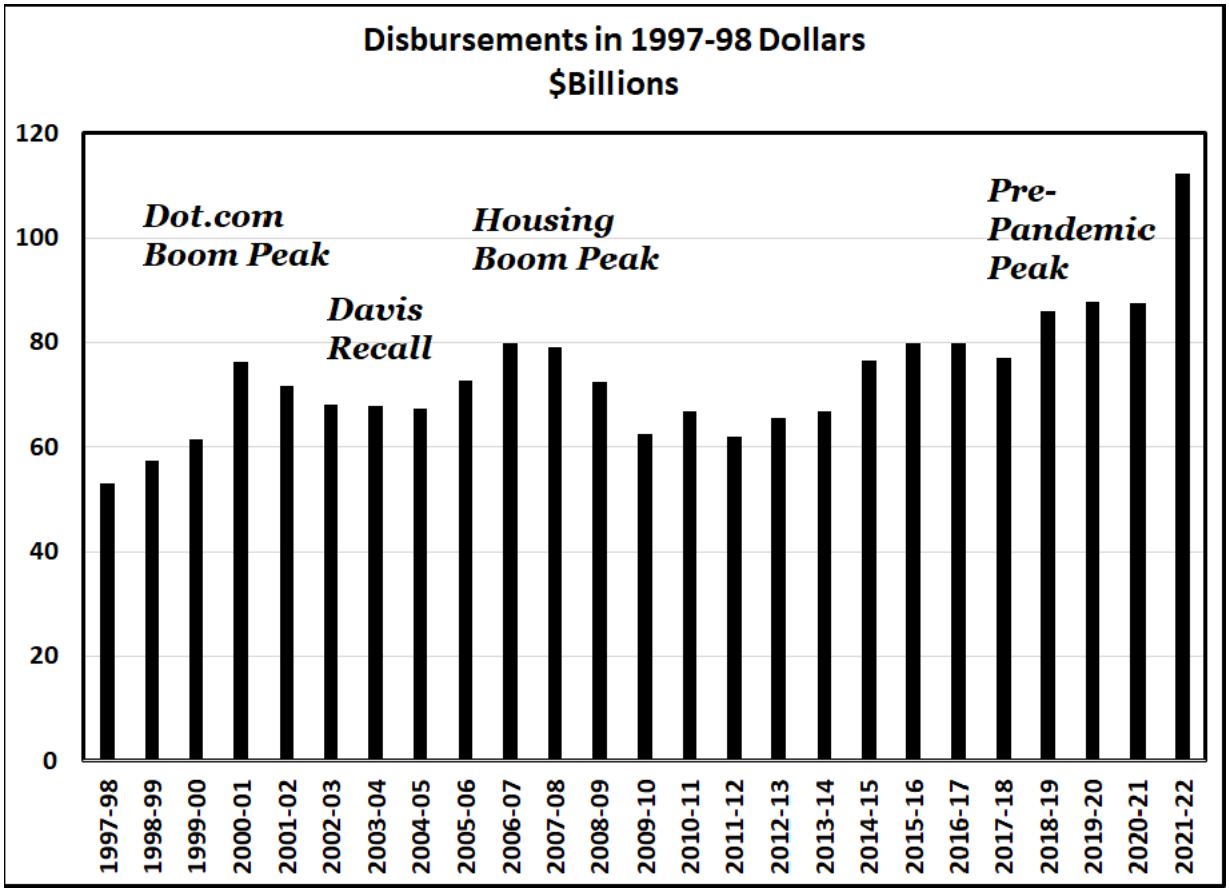
Figure 3:



Data as of the close of each fiscal year.

Source: June cash statements of the state controller for each fiscal year shown. Available at https://sco.ca.gov/ard_state_cash.html.

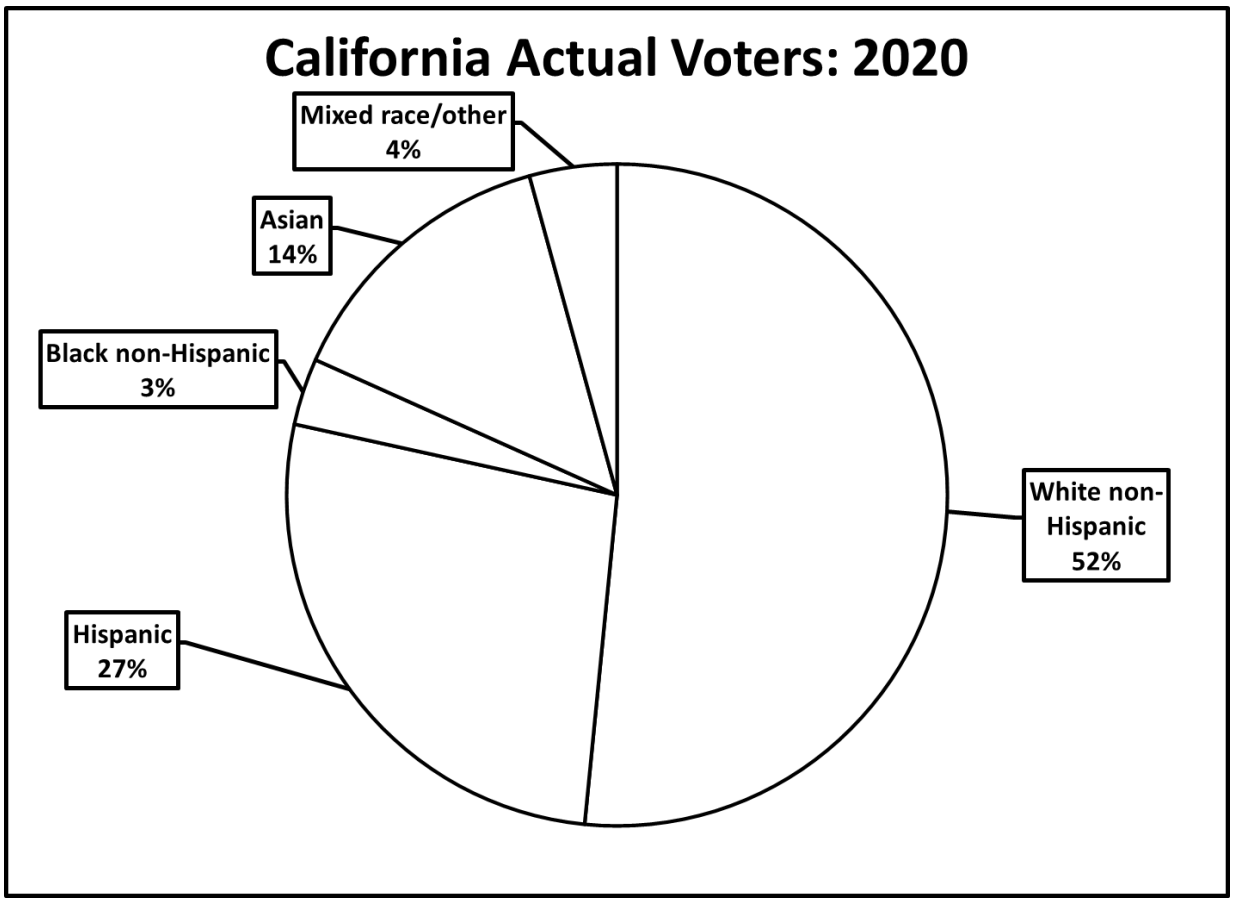
Figure 4:



Note: Disbursement data deflated by California CPI-U for December of fiscal year.

Source: June cash statements from state controller. Available at https://sco.ca.gov/ard_state_cash.html. California Department of Industrial Relations, https://www.dir.ca.gov/oprl/CPI/EntireCCPI.PDF.

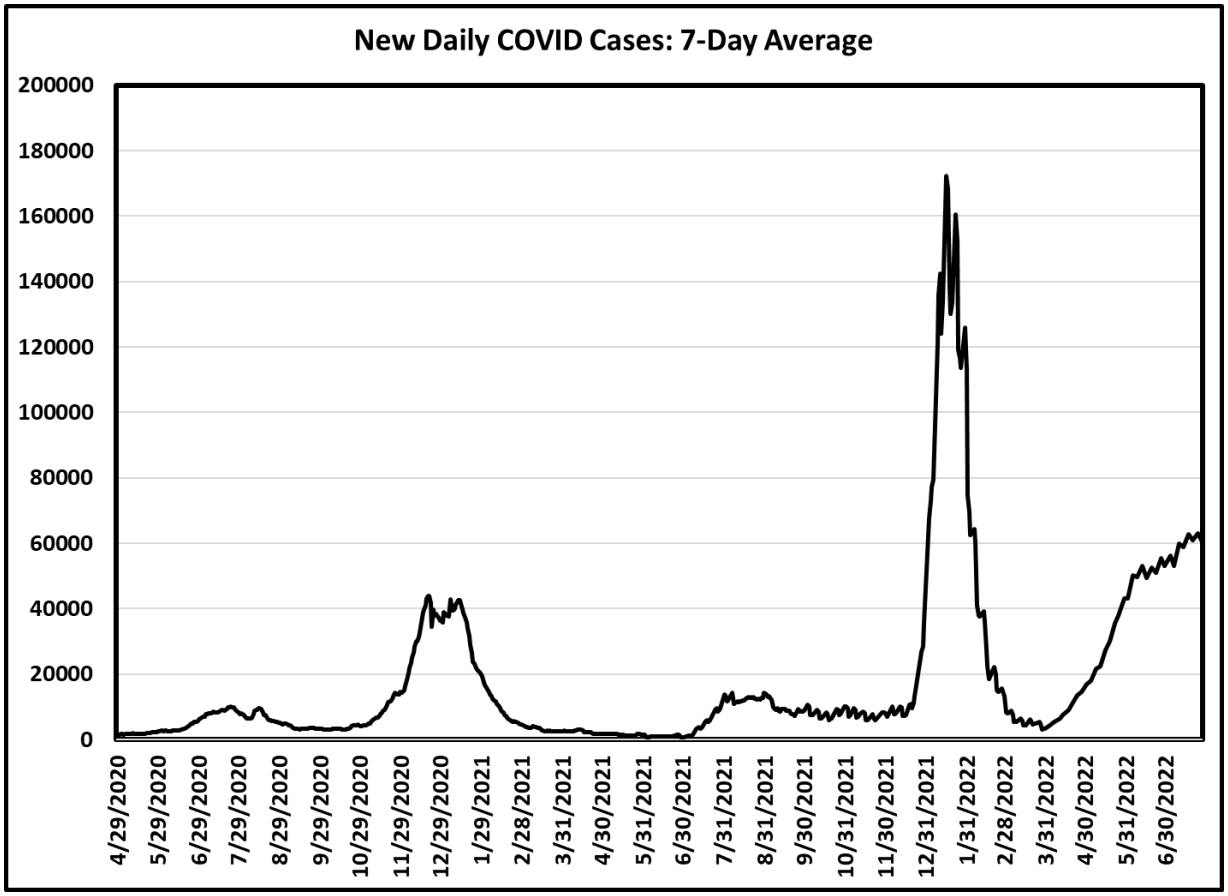
Figure 5:



Note: The chart above is based on U.S. Bureau of the Census data on reported voting (as opposed to just registration) in the November 2020 presidential election. It was assumed that Hispanics who did not identify as White were Black. This approach may lead to understatement of the Black non-Hispanic vote and overstatement of the Asian vote.

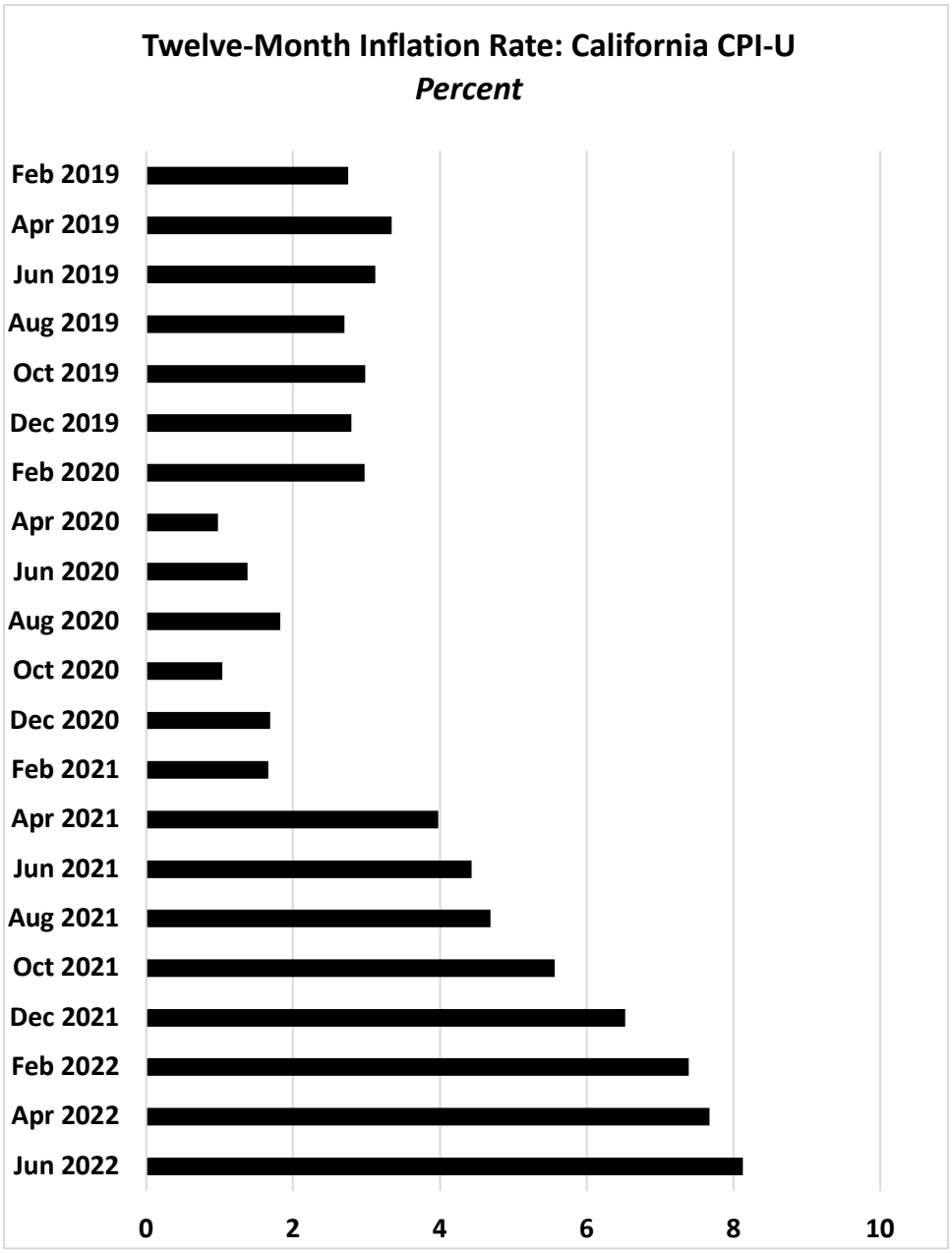
Source: Table 4b available at https://www.census.gov/data/tables/time-series/demo/voting-and-registration/p20-585.html.

Figure 6:



Source: California Open Data Portal. Data through July 28, 2022. Available at https://data.ca.gov/dataset/covid-19-time-series-metrics-by-county-and-state/resource/1bf24cac-ad64-496e-8e4c-7f7b326f9e4a**. The numbers shown are the 7-day average of daily increment to cumulative total case count.**

Figure 7:



Note: The California CPI-U is a population-weighted average of the Consumer Price Index for All Urban Consumers for available regions in California and appears every other month with a lag. Available from the Department of Industrial Relations at https://www.dir.ca.gov/oprl/CPI/EntireCCPI.PDF.
Inflation rate for June 2022 is author's estimate.

Chapter 3

Human Capital in the United States and Los Angeles

William Yu

Economist, UCLA Anderson Forecast

Summary

- Human capital has been steadily increasing from 2010 to 2020 in the U.S. and L.A.

- L.A.'s human capital overall is falling behind the national average, but its Millennials' human capital is rising faster.

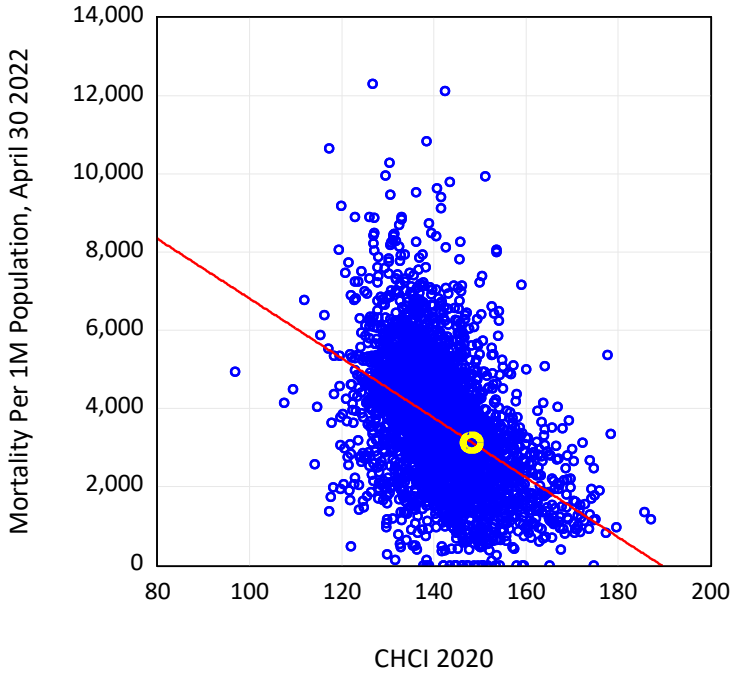
In 2012, Anderson Forecast developed a simple index named City Human Capital Index (CHCI)[1] to calculate the weighted average of educational attainment of adult residents by various geographic domains, such as state, metro (MSA), county, and zip code. The goal is to provide a simple barometer to measure and compare human capital across regions in the U.S. and over time. The simple interpretation of the index is that by and large one tenth of the index value is equal to the average schooling years of local residents.

As we used this metric, we found that CHCI is correlated with many other important socioeconomic variables, such as personal and household income, poverty rate, housing prices, and others. During the COVID-19 pandemic, we also found that CHCI is negatively correlated with mortality rate[2]. Figure 1 shows that there is an inverse association between CHCI in 2020 and COVID-19 cumulative deaths per 1M population as of April 30, 2022 of a county. This suggests that higher human capital could lead to better health outcomes. The yellow circle represents L.A. County. This report will use CHCI to present the past and current human capital in Los Angeles and across the country.

[1] See "The First 5 LA/UCLA Anderson Forecast City Human Capital Index", William Yu, October 2012. https://www.anderson.ucla.edu/documents/areas/ctr/forecast/chci/CHCI_ReportOct2012.pdf.
"Human Capital: The Key to Los Angeles Long-Term Prosperity," William Yu, March 2013. https://www.anderson.ucla.edu/documents/areas/ctr/forecast/chci/UCLAForecast_March2013_WYu.pdf.
"The Evolution of City Human Capital Index Across the Country and Public School Performance in California: Evidence from 2005 to 2013," William Yu, June 2015. https://www.anderson.ucla.edu/documents/areas/ctr/forecast/chci/CHCI_ReportApril2015.pdf

[2] See "Health in America: What Explains the Variation in COVID-19 Mortality Rate Across the United States," William Yu, Anderson Forecast Quarterly Report, March 2021.

Figure 1. Correlation Between City Human Capital Index in 2020 and Cumulative COVID-19 Deaths Per 1 Million Population as of April 30, 2022 by County



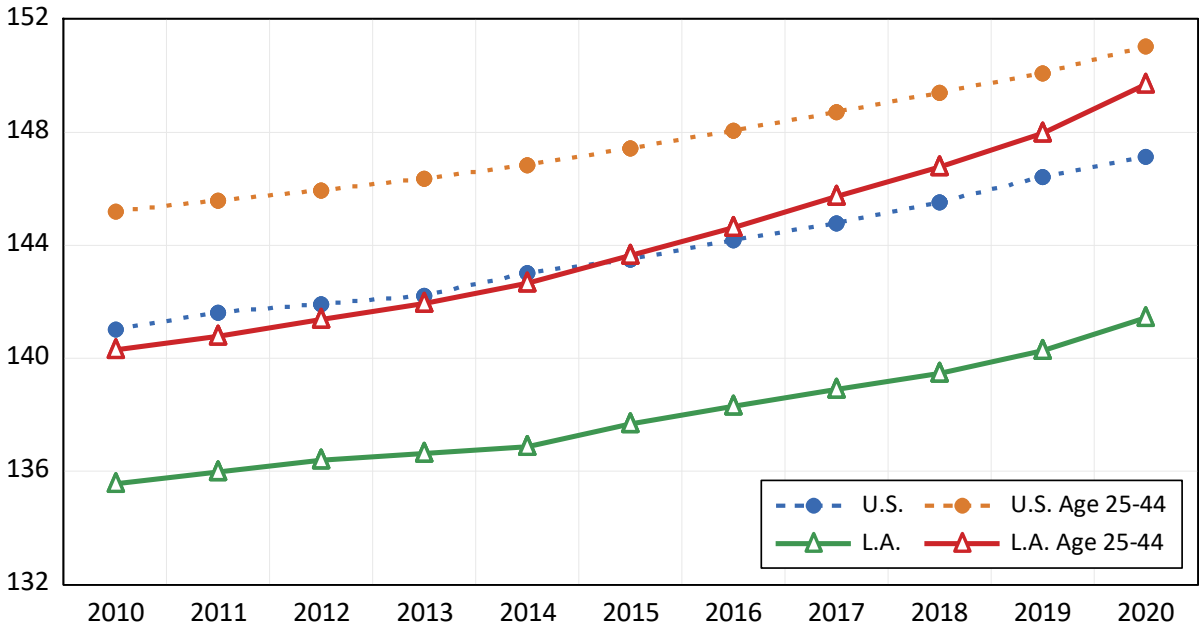
Sources: USA Facts, American Community Survey, and Author's Calculation

Human Capital Over the Past Decade

Figure 2 displays the CHCI in the U.S. (the blue dash line) and for Los Angeles County (the green solid line) from 2010 to 2020. The U.S.'s CHCI increased from 141 (i.e. 14.1 schooling years) in 2010 to 147 in 2020, and L.A. County's CHCI increased from 136 to 141 during the same period. The human capital level in Los Angeles is lower than the national average. Figure 2 also shows the CHCI for adult residents aged 25 to 44 over the past decade. For simplicity, let's call this number Millennial CHCI. In addition to all adult residents, it is important to know the human capital of the Millennial generation because this generation is becoming the backbone of the national and local economy.

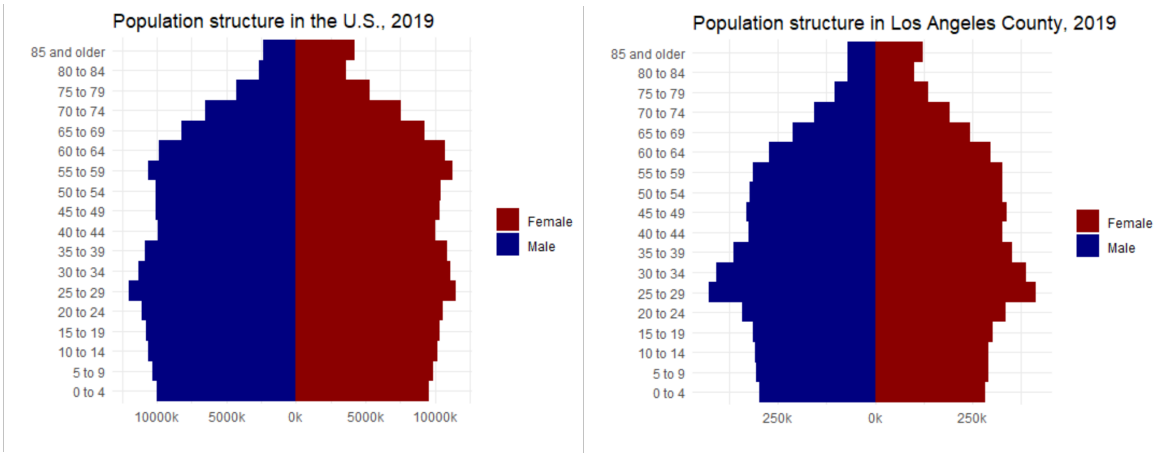
Figure 3 presents the population structure by age in the U.S. and L.A. County in 2019. We can see that for both the U.S. and L.A., ages 25-29, 30-34, and 35 to 39 are the three largest groups. And for L.A., this Millennial age group has a larger percentage than the nation. Figure 2 shows that while Millennial CHCI in the U.S. (the orange dash line) has been rising steadily (145 to 151), we see that Millennial CHCI in L.A. County has been rising at a faster pace than the national trend (from 140 to 150). The main reason could be that L.A., similar to other major metros, is more likely to attract more highly educated Millennials than rural areas or small towns.

Figure 2. City Human Capital Index, for All Adult Residents and Residents Aged 25 to 44, from 2010 to 2020 in the U.S. and Los Angeles County



Sources: American Community Survey and Author's Calculation

Figure 3. Population Structure in the U.S. and Los Angeles County, 2019



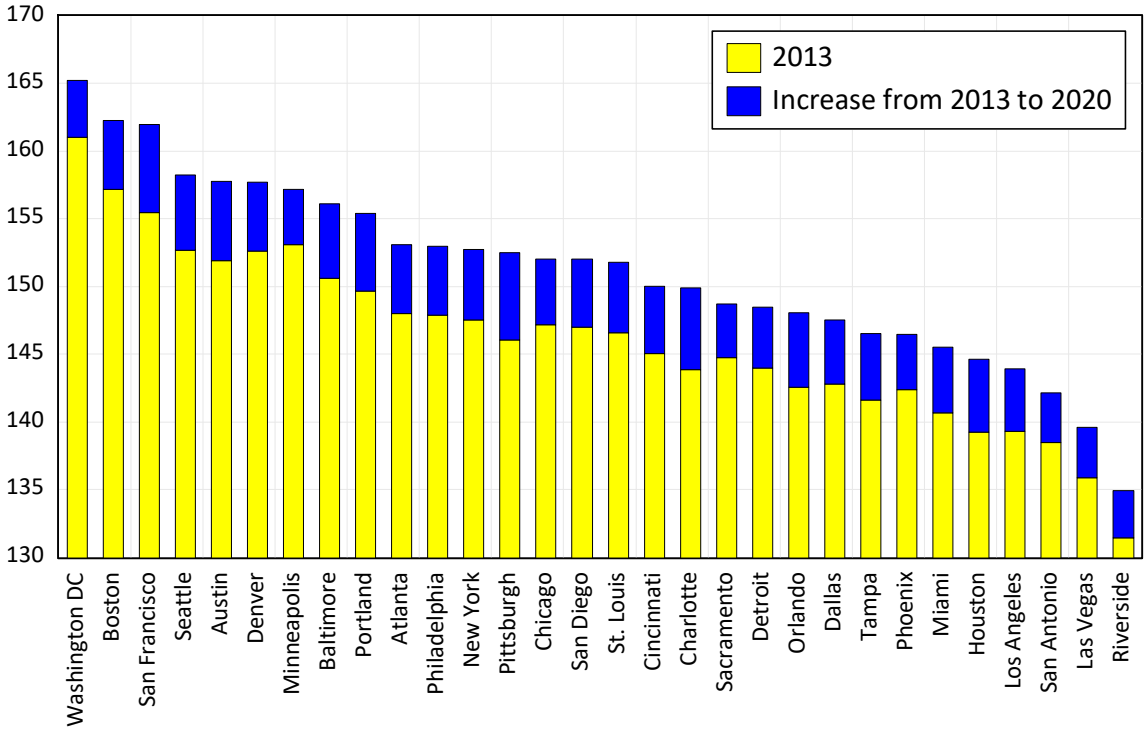
Source: American Community Survey

Human Capital by Metro

Figure 4 displays the CHCI in 2013 (in yellow) and the progress made (in blue) between 2013 and 2020 for the 30 largest U.S. metros (MSAs). The combined bar is the CHCI in 2020. The top three metros with the highest CHCI in 2020 are Washington DC (165), Boston (162), and San Francisco (162), with New York in the middle (153), and Los Angeles (144), San Antonio (142), Las Vegas (140), and Riverside (135) at the bottom. The good news is that we can see an across-the-board increase of CHCI from 2013 to 2020 due to reasons such as more education investment, higher graduation rates, and higher human capital migration.

By looking at the blue bar, we can see the level of improvement in human capital. The top three metros with highest increase of CHCI are San Francisco (+6.5), Pittsburgh (+6.5), and Charlotte (+6) while the bottom 3 metros with the lowest increase of CHCI are Las Vegas (+3.7), San Antonio (+3.7) and Riverside (+3.5).

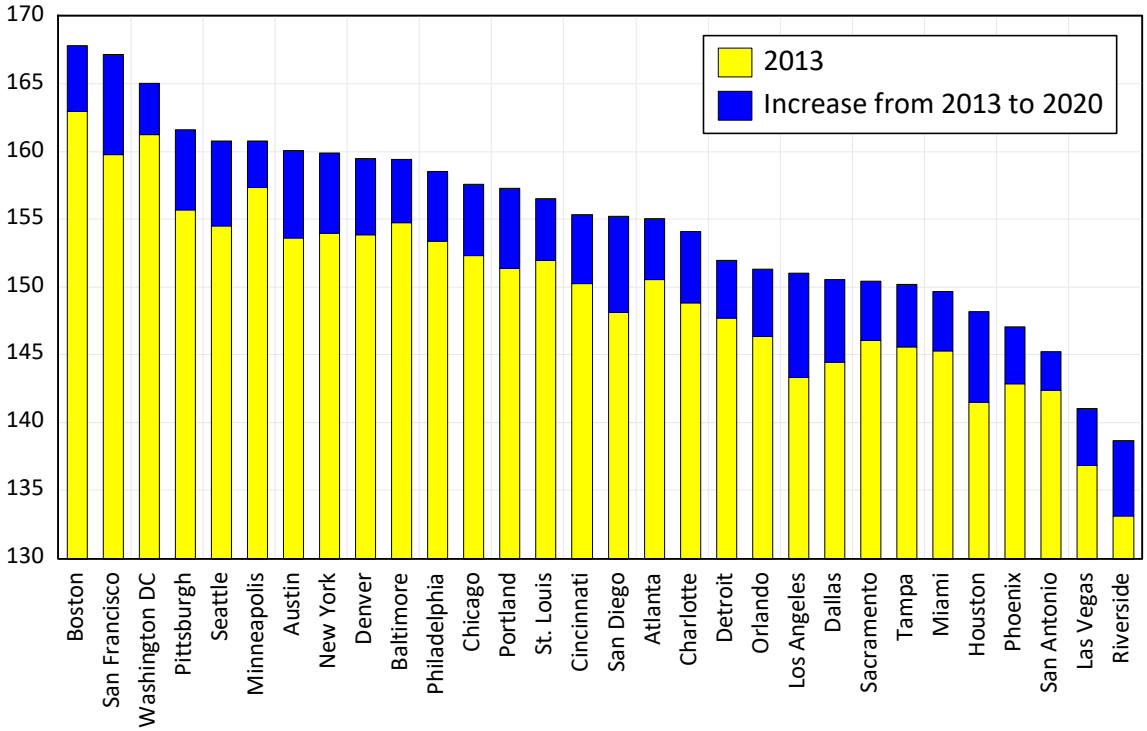
Figure 4. City Human Capital Index in 2013 and 2020 for the 30 Largest Metros



Sources: American Community Survey and Author's Calculation

Figure 5 shows the Millennial CHCI (aged 25 to 44) in 2013 and 2020 for the 30 largest metros. The top three metros with highest CHCI are Boston (168), San Francisco (167), and Washington DC (165), with New York (160) and L.A. (151) in the middle, and San Antonio (145), Las Vegas (141), and Riverside (139) at the bottom. The blue bars represent the CHCI changes from 2013 to 2020. L.A. (+7.7), San Francisco (+7.4), and San Diego (+7.1)—all in California—have the highest CHCI improvements while Washington DC (+3.8), Minneapolis (+3.4), and San Antonio (+2.8) have the smallest CHCI improvements.

Figure 5. City Human Capital Index for Adults Aged 25 to 44 in 2013 and 2020 for the 30 Largest Metros



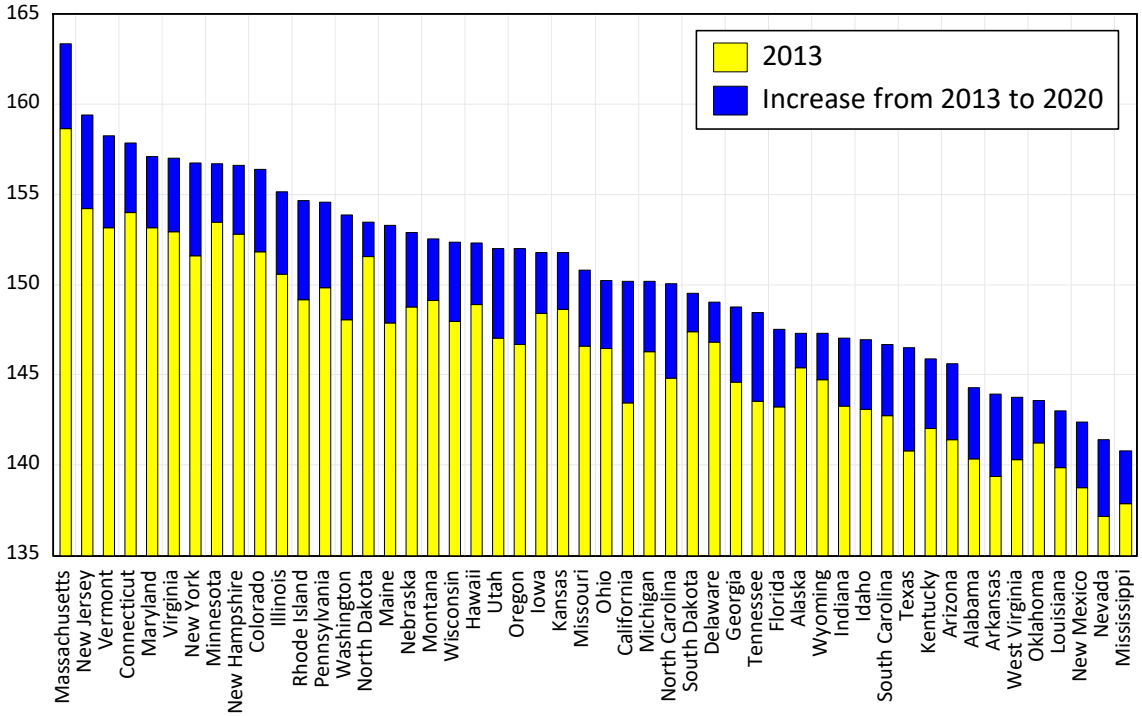
Sources: American Community Survey and Author's Calculation

Millennial Human Capital by State

Figure 6 exhibits Millennial CHCI information in 2013 and 2020 for 50 states. The top three states with the highest human capital in the 25 to 44 age range are Massachusetts (CHCI: 163), New Jersey (159), and Vermont (158). New York (157) ranks 7th, California (150) 27th, Florida (148) 34th, and Texas (147) 40th, while New Mexico (142), Nevada (141), and Mississippi (140) are at the bottom. The blue bars show the change of CHCI between 2013 and 2020. California

(+6.8), Washington (+5.8), and Texas (+5.7) are the top three highest states for human capital improvement for the Millennials, while South Dakota (+2.2), Alaska (+1.9) and North Dakota (+1.9) have the smallest improvements.

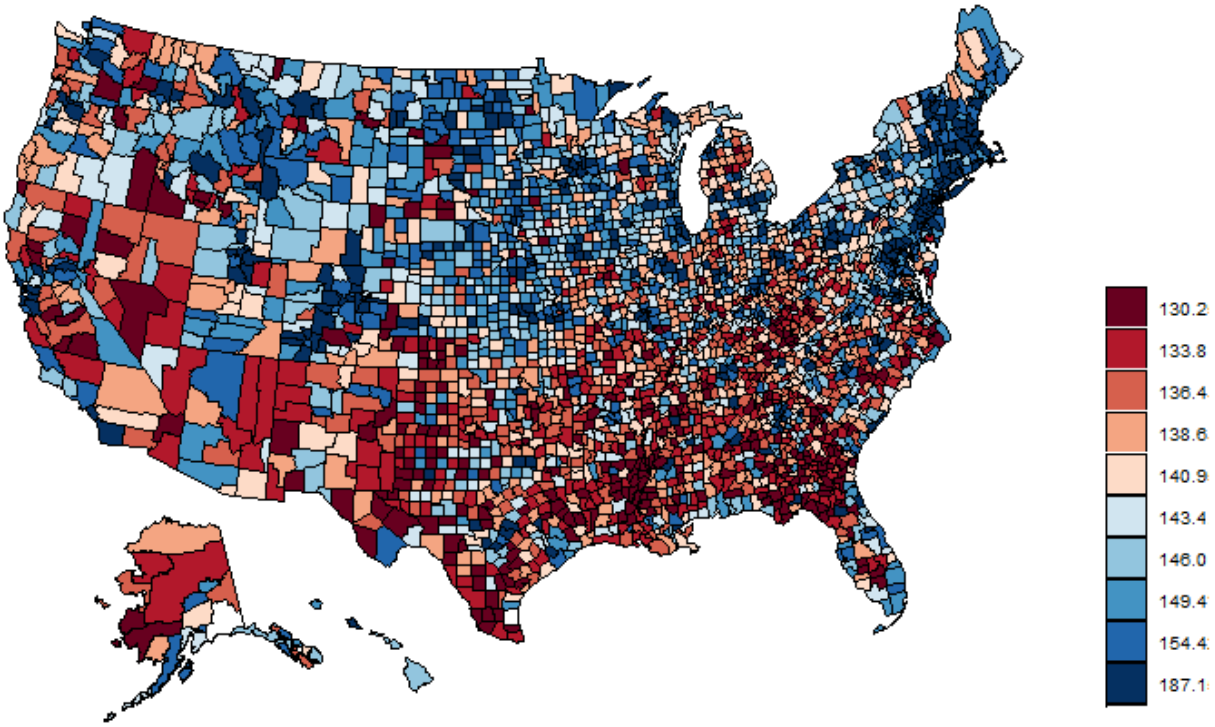
Figure 6. City Human Capital Index Aged 25 to 44 in 2013 and 2020 for 50 States



Source: American Community Survey

Figure 7 presents Millennial CHCI for all counties in 2020 by color, in which blue means higher human capital while red means lower human capital. The darker the color, the more extreme it is for human capital. Consistent with Figure 6, we see more counties with darker blue (high human capital) in the Northeast, the Midwest, and Colorado. In contrast, we see more areas with darker red in the South, and in Texas, Nevada, New Mexico, and the Central Valley in California. The dichotomy of human capital across the country is directly related to inequality of income across the country.

Figure 7. Millennial City Human Capital Index in 2020 by County



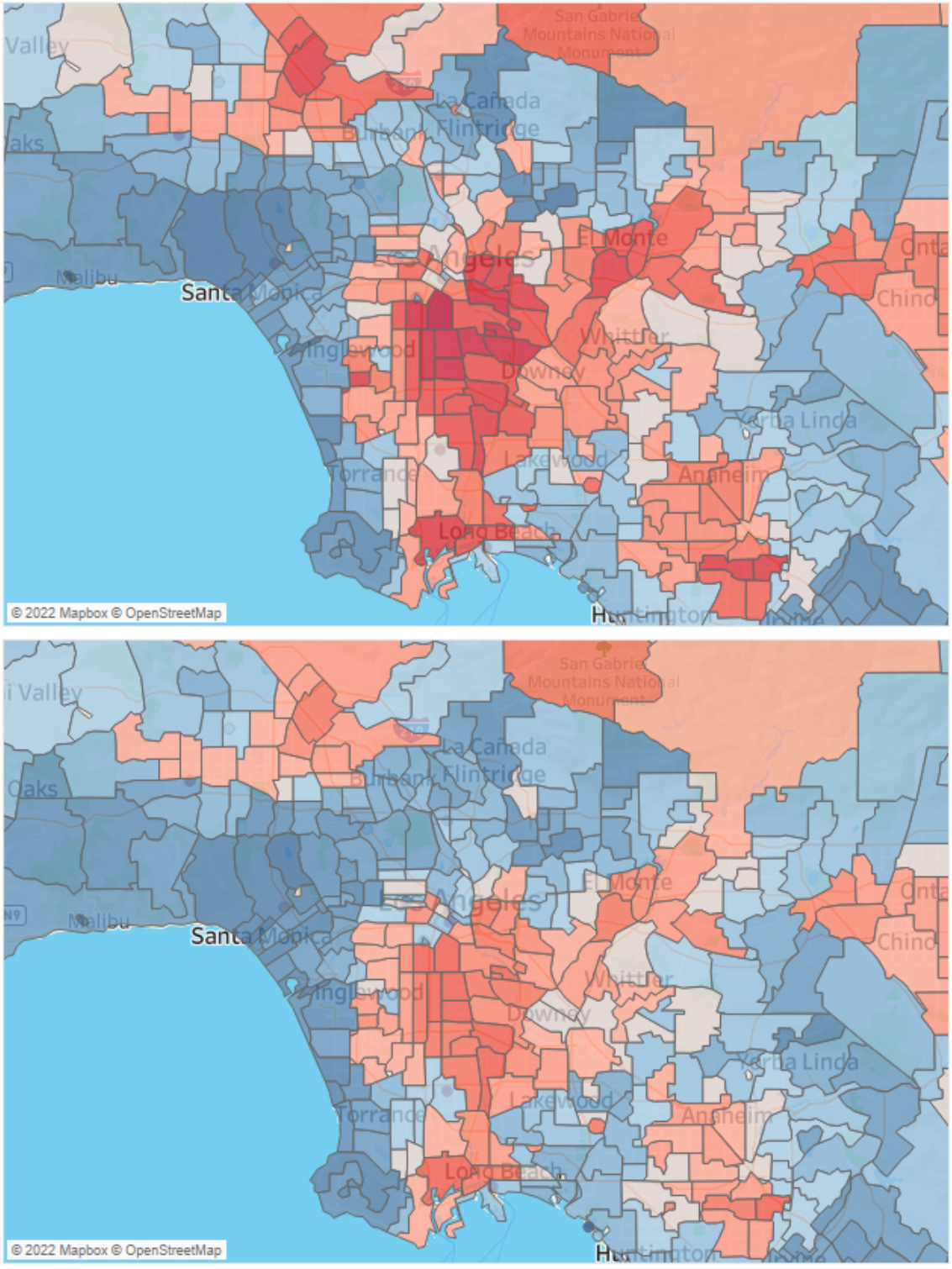
Sources: American Community Survey and Author's Calculation

Human Capital in Los Angeles

Here let's zoom in on the landscape of human capital in L.A. Figure 8 shows the CHCI in 2020 by zip code in the L.A. region, with blue colors representing higher human capital and red colors showing lower human capital. The upper chart is for all adult residents (age above 25) and the lower chart is for Millennial residents (age 25 to 44). We see that west and coastal L.A., the Santa Monica Mountains, and Pasadena areas have higher-educated residents while central and south L.A. have lower-educated ones. As shown in Figure 2, Millennial Angelenos have higher human capital than overall adult Angelenos. This indicates that we are heading in the right direction to improve our human capital through both investment in education and attracting migration of a more highly educated workforce. Figure 9 zooms further into the L.A. region for Millennial CHCI. We notice that downtown L.A. has higher human capital than its surrounding zip codes.

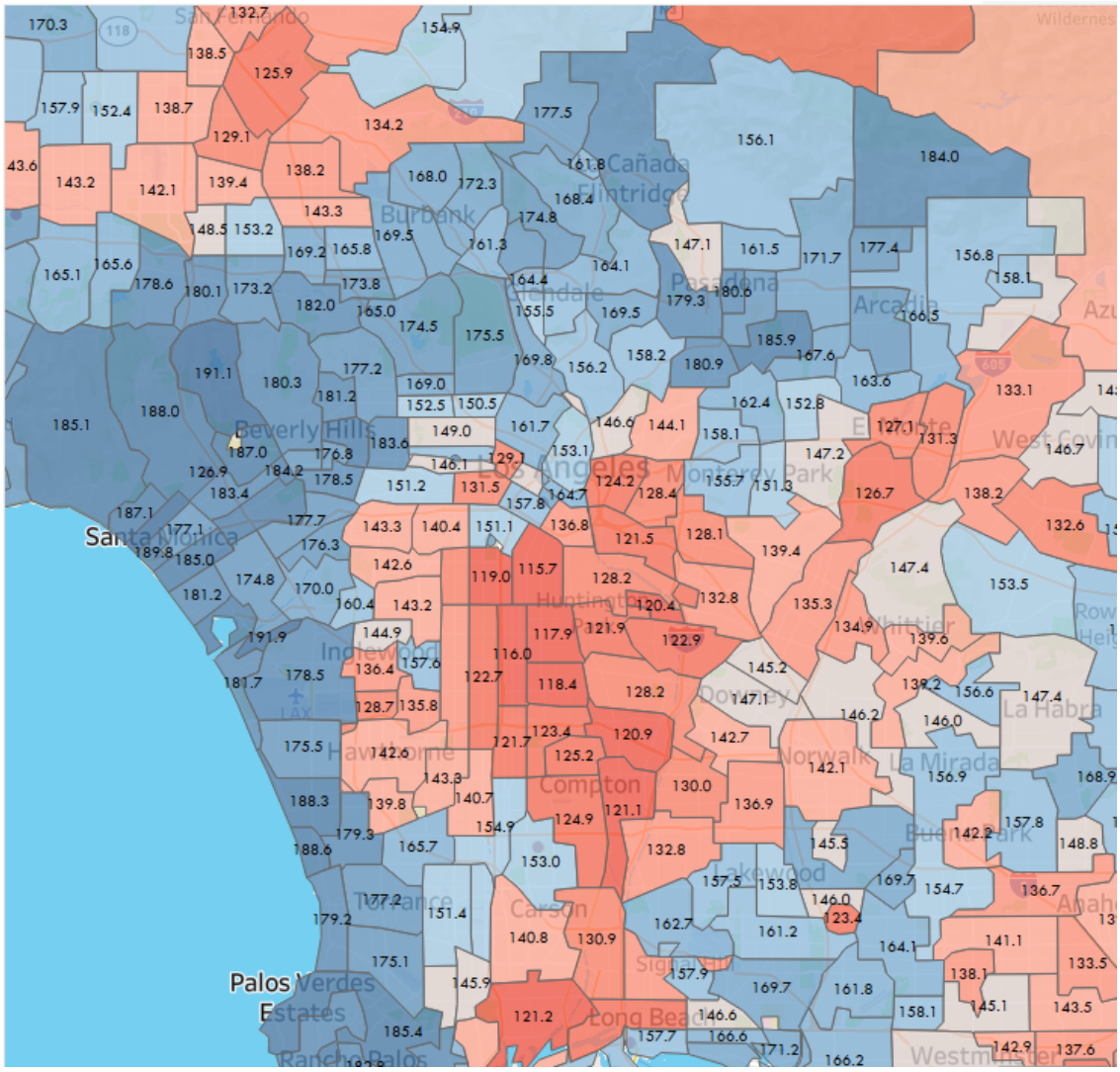
Figure 8. City Human Capital Index in 2020 by Zip Code in Los Angeles

Upper: For All Adult Residents. Bottom: For Millennial Residents Aged 25-44



Sources: American Community Survey and Author's Calculation

Figure 9. Millennial City Human Capital Index in 2020 by Zip Code in Los Angeles



Sources: American Community Survey and Author's Calculation

The Impact of the Pandemic

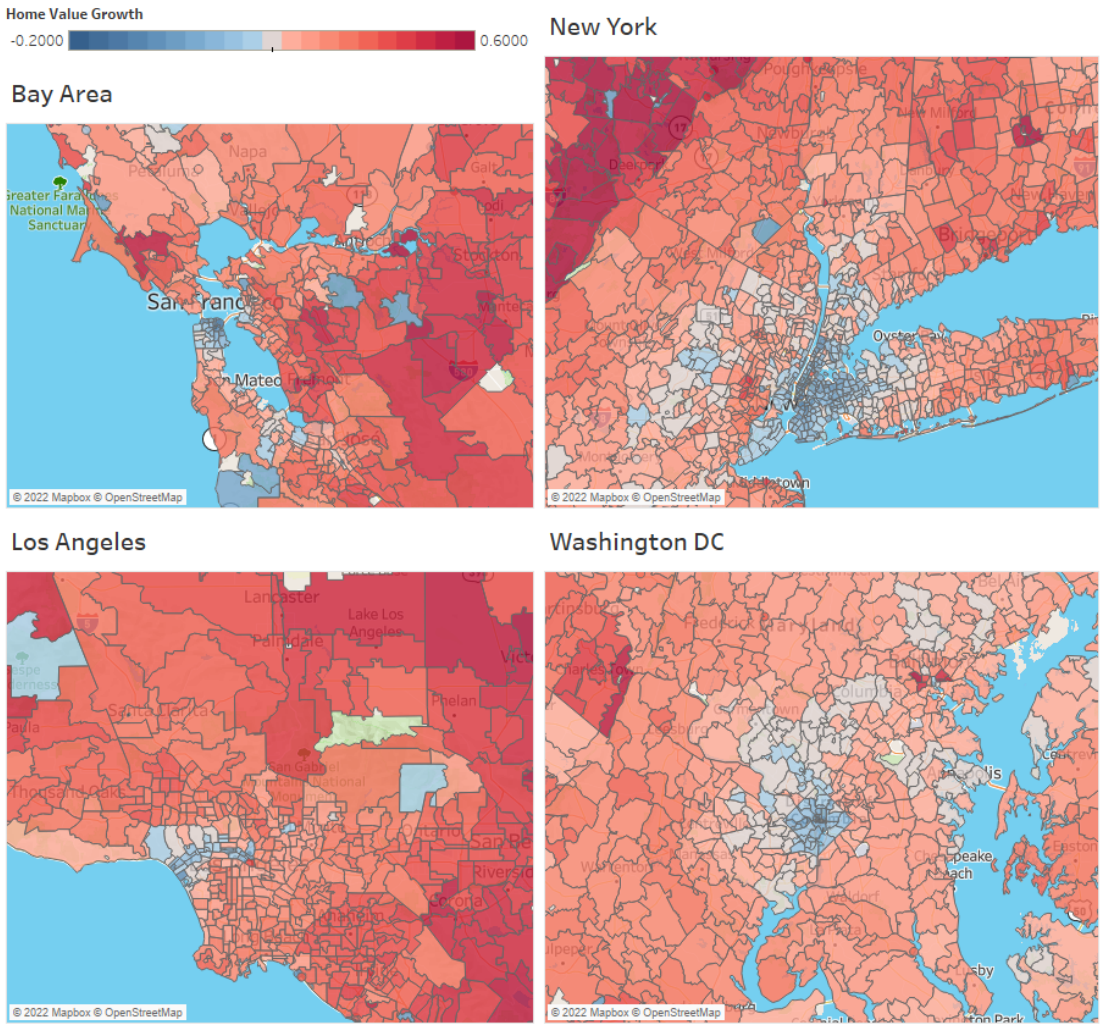
Note that the aforementioned analysis is based on education data up to 2020. As we all know the COVID-19 pandemic has had a tremendous impact on our economy and society. Inarguably, one of the most affected sectors has been education, but it is as yet unclear how exactly the disruption and change of schooling practices across the nation will impact CHCI among states, metros, counties, and zip codes. We will continue to monitor the CHCI landscape in the coming years to measure the effect.

One effect that is already measurable is the rise of remote work/work from home and flexible work schedules, with 2-3 days working from home and 2-3 days working in the office becoming more common. For example, some studies[3] have suggested a so-called "donut effect" on housing price growth, in which urban core home value growth suffered while suburban areas saw higher growth because of workforce movement. Figure 10 shows the home price growth by zip code from February 2020 to April 2022, in which darker red colors mean higher home price growth while blue color means lower or negative home price growth. Indeed, we do see this donut effect on home value growth for major metros. It is unclear if this will stop or revert the trend we have seen in the 2010s of Millennials moving into and living in urban cores, as shown in Figure 9.

In summary, measuring human capital is an important tool for predicting the economic future of metros, counties, and regions. L.A. county, while lower than the national average in adult educational attainment, has shown encouraging growth in this area with the Millennial generation. Hopefully, the following generations will continue this trend as L.A. makes education a priority.

[3] For example, see Ramani and Bloom's "The Donut Effect of COVID-19 on Cities," NBER Working Paper 28876; and Mondragon and Wieland's "Housing Demand and Remote Work," NBER Working Paper 30041.

Figure 10. Zillow Home Value Growth From February 2020 to April 2022 by Zip Code



Source: Zillow

Chapter 4

Inside the Feud Over Minimum Parking Requirements in California

Evan Farrar

Evan Farrar is an alumnus of the undergraduate program in Public Affairs at the UCLA Luskin School. His past research explores land use regulation and housing production in California cities. He works in real estate economics consulting at RCLCO.

When it comes to parking, rational people quickly become emotional and staunch conservatives turn into ardent communists. Thinking about parking seems to take place in the reptilian cortex, the most primitive part of the brain responsible for making snap judgments about fight-or-flight issues, such as how to avoid being eaten.

Donald Shoup, *Parking and the City*[1]

Parking is perhaps the most emotional issue in all of transportation. For those of us who drive—most working-age people in a city like Los Angeles—parking spaces mark our territory. Any attempt to take those spaces away and replace them with things we need causes great distress. Parking spaces are so revered that people who volunteer their time to manage crowded off-street parking lots are lauded as local heroes. Meanwhile, when developers propose building mixed-income housing on parking lots at transit stations, some activists call their plans "horrifying."[2] We have become extraordinarily attached to our parking spaces and the cars we park in them. Any policymaker who wishes to chip away at the car-centricity of California cities faces an uphill battle.

Background: Parking Minimums

How did we get here? When cars first emerged in major American cities in the early 20th century, planners mulled over the question of how to ensure drivers could park without clogging city streets. Instead of considering alternatives such as pricing on-street parking, cities opted for a supply-based approach to managing demand for parking. Officials favored this approach as it would allow drivers to park for free in most places. Los Angeles was one of the first cities to require developers to supply parking, way back in 1936.[3] These requirements spread like wildfire, and they are still the norm today. There are almost 20 million parking spaces in Los Angeles County—more than three spaces for every car.[4]

When asked about why their cities have parking requirements, most planners are stumped. Usually, they will cite other cities as their source of inspiration.[5] Still, the typical California zoning code sets minimums for many types of land uses. There are even code provisions for bowling alleys and funeral homes. These requirements have no empirical basis, but they have drastically affected the economic vitality, sustainability, accessibility, and aesthetic character of our cities. They are one of many policies that subsidize and prioritize driving over other modes of travel—not everyone drives, but everyone bears the hidden costs of parking minimums.

The costs of parking minimums are well-established, yet elected officials are only now beginning to reconsider them. Since early 2021, California legislators and the groups that lobby

them have warred over a series of bills targeting minimum parking requirements for residential and commercial projects. This feud offers several key insights for researchers and policymakers interested in the politics of statewide efforts to remove local parking requirements, but we lack a comprehensive analysis of how and why different groups declared a stake in this fight. The central purpose of this chapter is to provide this analysis for the benefit of anyone and everyone interested in the future of California cities.

The High Costs of Minimum Parking Requirements

One of the first to call attention to the costs of *status-quo* parking policy, UCLA Professor Donald Shoup calls minimum parking requirements a "kludge"—a clumsy and haphazard solution to a confounding problem.[6] In this case, the problem "solved" by parking minimums is a lack of available parking. But requiring abundant (and mostly free) parking spaces everywhere has done more harm than good.

The Many Costs of Minimum Parking Requirements

Even if drivers are not charged for using them, parking spaces are far from free. Rider Levett Bucknall, an international construction consultancy, estimates that parking spaces in Los Angeles cost approximately $105 to $195 per square foot to build as of 2022, depending on whether the spaces are in a surface or underground lot.[7] Assuming parking spaces are 330 square feet on average, this means that parking spaces in Los Angeles can cost $30,000 to $50,000 each, excluding land cost. Parking spaces can very easily cost more than the cars that park in them.

Thus, minimum parking requirements seriously distort the cost of commercial and residential development, especially where land values are highest. In Los Angeles, the costs of meeting minimum parking requirements can amount to a third of the total value of small properties in dense neighborhoods.[8] High minimum parking requirements often mean that developers find it more profitable to locate their projects where land values are lower, away from urban cores. Therefore, the binding effect of minimum parking requirements on parking supply encourages sprawl.

Parking minimums encourage sprawl in other ways too. The oversupply of on-site parking, most of which is free for the user, shields drivers from the true economic cost of traveling by car.[9] Also, parking minimums effectively cap building density. If a parking space takes up 300 square feet, and a city requires two parking spaces per unit of housing, then 600 square feet of urban space must be set aside for parking in lieu of more housing; the same principle applies to any

land use. This spreads buildings apart, thus limiting walkability and increasing car dependence. In effect, minimum parking requirements flatten our cities.

Parking minimums have severe environmental costs as well. A study of residential lotteries in San Francisco found that an increase in a building's parking supply ratio by one parking space per resident increased the likelihood of household car ownership by thirty percentage points.[10] Additional research finds that an increase in city-wide parking supply from 0.1 to 0.5 spaces per person is associated with a thirty percentage point increase in car travel mode share.[11] When parking is abundant everywhere, uses are separated, and buildings are spread far apart, driving naturally predominates. In California, the transportation sector is responsible for roughly 40% of statewide greenhouse gas emissions, and most of the transportation sector's emissions come from light-duty vehicles—ordinary cars and trucks.[12]

Finally, the costs of meeting minimum parking requirements drastically affect urban form. But developers and property owners do not internalize these costs; they pass them on. The costs of providing on-site parking are bundled into per-unit housing prices, with the added effect of lowering the number of feasible on-site units, further increasing the per-unit price tag. To make things worse, parking requirements impose the highest costs—as a percentage of the overall cost of development—on deed-restricted affordable projects, where low-income households are more likely to live.[13]

But tenants are not the only ones who lose out because of the regressive impacts of minimum parking requirements. Customers bear the costs of providing parking for commercial developments. Employers bear the costs of providing parking for office projects. Even when this parking is ostensibly "free" for the driver, parking is never truly free; its costs are passed on to all of us as end users and consumers, whether we drive or not.

So, the question for planners and policymakers in California becomes a matter of priorities. Is requiring off-street parking more important than providing affordable housing, or averting the climate crisis? Is it more important than building dense, accessible, and vibrant cities? More people are starting to say "no."

Reforms Picking Up Steam

Increasingly, local elected officials and planners are taking account of the costs of minimum parking requirements and getting rid of them. The Parking Reform Network identifies nineteen U.S. cities that have abolished parking requirements city-wide.[14] Among California cities, Alameda, Emeryville, and San Francisco have no parking minimums at all, Berkeley has

eliminated minimums for most new residential development, and Fresno has no parking minimums for non-residential uses.[15] San Diego requires unbundling (separating payment for parking from rent), and has replaced parking minimums with parking maximums of one space per unit within a half mile of transit.[16]

These reforms have already yielded promising results. After San Diego eliminated parking minimums near transit, the city saw a fivefold increase in units built using the local density bonus, a sixfold increase in *affordable* density bonus units, and a 24% increase in total housing production across the city.[17] It seems that removing parking minimums was most beneficial for developers of affordable housing. These results become especially relevant when we consider the merits of opposing arguments to statewide parking reform.

Clearly there is a compelling case for *cities* to get rid of parking minimums. But what is the rationale for *statewide* reform? First, parking requirements undermine state investments in public transit. Governor Gavin Newsom's proposed FY2022 Caltrans budget sets aside more than $3 billion, the bulk of which will flow directly to local governments.[18] Local policies that subsidize and promote driving subvert these investments.

Second, cities have perverse incentives when it comes to parking policy. The race to attract sales tax revenue causes cities to compete for consumers by guaranteeing abundant parking everywhere.[19] State legislators have the power needed to avoid this race to the bottom, and so they are the right people to limit parking requirements. But the degree to which they are willing to enact such policies is unclear.

Key Questions

The merits of abolishing parking minimums are nearly indisputable. But abolition is thorny politics. In light of recent proposed reforms to parking requirements in the California legislature, and the political battle that has since ensued, we now have the opportunity to explore the following questions:

(1) Which people and groups support/oppose parking reform? Why?

(2) What are the merits of these groups' arguments? And if their arguments lack merit, why do these groups make them?

(3) What do these political dynamics prove about the possibilities of building effective coalitions to dismantle parking requirements in California?

AB 1401: The First Attempt at Reform

Authored by Laura Friedman (D-Glendale), AB 1401 (2021) was the California legislature's first crack at abolishing parking minimums near transit. The bill would have prohibited a local government from imposing or enforcing a parking requirement on any project within a half mile of public transit or inside a low VMT (vehicle miles traveled) area. Proximity to transit was defined in terms of walking distance from a major transit stop or along a high-quality transit corridor, in line with existing law. The Office of Planning and Research identified low VMT areas where AB 1401 would have applied.

The research was on Friedman's side, so much so that researchers from the UCLA Department of Urban Planning registered their support for the bill, as did several academics and research groups affiliated with UC Berkeley and California State University, Pomona.[20] But the bill failed. Despite a 51-17 vote of support from the Assembly, when the bill was handed over to the Senate, Appropriations Chair Anthony Portantino placed the bill on his committee's suspense file, and later held the bill under submission.[21] This step effectively killed the bill, since Portantino did not produce a motion to progress the bill out of Appropriations.

AB 1401's fate mirrored that of AB 710 (2011) and AB 904 (2012), two previous bills that would have capped minimum parking requirements for projects near transit.[22] As the case against minimum parking requirements strengthens every year, how did things not go differently for AB 1401? Answering this question requires us to dive deeper into the groups that supported and opposed the bill.

Advocacy For and Against AB 1401

A coalition of pro-transit, pro-housing groups co-sponsored AB 1401. Abundant Housing LA, California YIMBY ("Yes In My Back Yard"), and the Council of Infill Builders led this coalition, alongside the San Francisco Planning and Urban Research Association (SPUR).[23] These groups' arguments aligned with the existing literature on parking minimums. In an April 2021 blog post, Anthony Dedousis of Abundant Housing LA outlined the coalition's reasoning:

"*It's no secret that California is very bad at building enough homes for its people. But California is great at building lots of homes…for cars. …Building all this parking comes with a heavy cost.*"[24]

The bill's co-sponsors heavily emphasized the negative impacts of parking minimums on housing affordability. This is not surprising given that the principal focus of both Abundant

Housing LA and California YIMBY is housing policy. In their support letter, California YIMBY Legislative Director Louis Mirante wrote:

"*On-site parking reduces the housing supply by taking up space that could otherwise be used for additional apartments. Providing on-site parking is also very expensive…This cost is passed on to renters and home buyers, regardless of whether they own a car*."[25]

The emphasis on housing is important, as AB 1401's detractors harped on the bill's impacts on the affordable housing supply instead of focusing on how the bill would have affected car use in California cities. Thus, the debate over AB 1401 was as much a feud over housing policy as it was a feud over transportation policy.

Two very different factions emerged to oppose the bill. The first faction, spearheaded by the League of California Cities, argued that AB 1401 usurped local control. The League noted in their letter to Assemblymember Friedman that "*AB 1401 would give both developers and transit agencies, who are unaccountable to local voters, the power to determine parking requirements*."[26]

A more extreme member of this faction, Livable California, argued that AB 1401 was a "*top-down mandate that would destroy the economic viability and livability of [California] jurisdictions and their neighborhoods*."[27] Coalescing behind the League and other groups defending local control, eight individual towns and cities came out against the bill, as well as several regional associations representing local governments.[28] Their argument was not new; it was about whether local governments deserve unchecked power over land use within their boundaries, an longtime question in debates over zoning bills in Sacramento.

In many ways, the second faction made the debate over AB 1401 interesting and worthy of further study. This faction consisted of progressive non-profit groups—including the Western Center on Law & Poverty and the Alliance of Californians for Community Empowerment (ACCE)—that argued that AB 1401 would undermine the State Density Bonus Law (SDBL). Under this law, developers can agree to include affordable units in their projects in exchange for an increase in allowable density among other benefits, including a lower parking minimum.[29] These non-profits feared that eliminating parking minimums would take away a "bargaining chip" that cities use to encourage more affordable units in market-rate projects.[30]

Notably, the California Chapter of the American Planning Association (APA) initially aligned with these non-profits, citing concern over the bill's effects on density bonus uptake. The APA wrote to Assemblymember Friedman, suggesting that AB 1401 only apply to density bonus projects to

"ensure that new parking incentives do not undermine the state's existing mechanisms for incentivizing affordable housing production."[31] The APA later reversed their position before Portantino killed the bill, but their opposition unquestioningly lent credence to the second faction's density bonus argument.

This second faction made the debate over AB 1401 fundamentally different than debates over prior bills. First, this faction gave cover to state legislators who feared chipping away at local control—after all, protecting affordable housing is an easier sell to progressive voters. Also, the local control and non-profit factions somewhat contradicted one another; protecting local control over land use means protecting the very policies that make building affordable housing difficult (including parking minimums). But, most importantly, the non-profits seemed to be making a fact-based claim about AB 1401's effects, whereas the local control camp advanced a largely value-based argument. A fact-based claim can be fact-checked whereas values are subjective.

The Evidence on Parking Requirements and Density Bonus Law

The non-profits' argument might have made some sense if the density bonus law did create a robust supply of new affordable housing. But this is not the case. Even the APA admits "[the] Density Bonus has been unevenly used throughout the state"—in fact, in two-thirds of California cities, the [Density Bonus Law] has produced no affordable housing at all.[32]

Recent density bonus reforms have neglected the law's main pitfalls. AB 2345 (2020) sought to encourage wider use of the law by increasing the maximum density bonus from 35% to 50%. Modeled after San Diego's density bonus, the bill fell short of implementing the city's most significant reform: removing minimum parking requirements near transit. Contrary to the arguments from the Western Center and its allies, eliminating parking minimums in San Diego caused a five-fold increase in density bonus uptake within the first year. Responsible for nearly half of new housing development, the reform also allowed the city to permit six times as many affordable housing units in 2020 as it did in 2019.[33]

The "bargaining chip" argument begs the question of why planners need bargaining chips at all. In essence, the non-profit faction was defending the value capture paradigm, under which cities seek to exact public benefits from each project. Though well-intentioned, value capture fallaciously assumes that new housing by itself is not socially beneficial.[34] In fact, all types of housing serve an important goal: mitigating the housing shortage. But that is not the only conceptual flaw in the non-profits' defense of parking minimums.

The "bargaining chip" argument supports preserving these minimums with the *intention* of bargaining them away. This kind of pretextual planning hurts transparency, creates needless uncertainty, and fosters distrust of local governments.[35] To defend parking minimums as a bargaining chip is to defend an antiquated planning system that fails to deliver what Californians need—and, not coincidentally, delivers a lot more parking than Californians need.

AB 2097 (and SB 1067): Trying Again

Despite the best efforts of AB 1401's many supporters, the bill never reached a vote in the Senate. The non-profits that opposed AB 1401 gave skeptics what they needed: an argument they could deploy that framed AB 1401 as a regressive giveaway to developers. Senator Portantino adopted this framing and sank the bill.

But this saga did not end with AB 1401. In a second attempt to get statewide parking reform over the finish line, Laura Friedman introduced AB 2097 (2022), which Governor Newsom signed into law on September 22, 2022. The fight over this bill—though it ended in success for the pro-reform factions—still reveals several important insights about challenges facing the parking reform movement.

The fight over AB 2097 was unique for a couple key reasons. First, Senator Portantino (still the chair of Appropriations) proposed his own parking reform bill for the 2022 session: SB 1067. Essentially a watered down version of AB 2097, SB 1067 would have only applied to residential projects within a half mile of public transit stops.[36] Portantino's bill also would have required cities to enforce a number of value capture provisions on developers who opt to supply less parking than is required, and proposed a cap on allowable overall minimums.[37] Interestingly, several cities and anti-growth organizations (resembling the local control faction that opposed AB 1401) opposed this bill, but non-profits did not come out against the bill.[38]

SB 1067 complicated AB 2097's chances, as Portantino was left with the opportunity to pitch SB 1067 as a compromise between cities and the urbanist coalition coalescing behind AB 2097. He also retained the power to place AB 2097 in the Senate Appropriations Committee suspense file, as he did with AB 1401. SB 1067 passed the Senate handily, with a 23-8 vote, but languished without a hearing in the Assembly Appropriations Committee, as committee members awaited word from the Senate, which was considering AB 2097 at the time.[39]

Additionally, the State Building & Construction Trades Council entered the parking reform debate, declaring their opposition to SB 1067.[40] In a letter to the Senate Governance and Finance Committee, the Trades Council claimed that eliminating parking minimums would "put

cars in the streets" and burden low-income Californians by incentivizing more market-rate housing construction.[41] These claims directly contradicted the literature on parking minimums, but more importantly, the Trades Council was new to the parking reform debate, and gave new cover to anti-reform Democrats. They could claim their opposition was due to their support for organized labor. However, the Council's opposition was likely nothing more than reflexive; in the 2022 session, they also fought a housing production bill —AB 2011—on account of the bill's allegedly hollow labor protections.[42] Perhaps the Trades Council sought to bring down a wide range of urbanist bills during the 2022 session, regardless of these bills' merits.

Importantly, urbanist groups that supported AB 1401 learned from the bill's failure. The non-profits that opposed AB 1401—including the Western Center—still aligned with the League of California Cities, local governments, and homeowners' groups in opposing AB 2097.[43] This time, the urbanists succeeded in luring most of these progressive groups' attention elsewhere. The urbanist faction also expressed willingness to come to the table on value capture provisions for residential projects, which the Western Center supported previously.[44] This value capture would have left commercial projects alone, but still would have encouraged more walkable and less auto-oriented commercial corridors.

However, this compromise took a different form. AB 2097's coauthors amended the bill to allow jurisdictions to impose parking requirements on large, market-rate residential projects if "a preponderance" of evidence demonstrated a "substantially negative impact"—which is difficult for cities to prove. This amendment succeeded in keeping the bill's core provisions intact, while quelling fears that parking reform is nothing more than a subsidy for developers (an irrational fear, but a common one).

All things considered, AB 2097's passage is proof that parking reform bills did gain considerable momentum in the 2022 session. Portantino's bill, SB 1067, demonstrated that perhaps parking reform skeptics were warming up to some limits on parking minimums. But even though the urbanist coalition succeeded, the influence of organized labor and the difficulty of effective compromise raised serious questions about why it was so hard to get AB 2097 over the finish line.

Lessons for Policymakers and Practitioners

The debates over AB 1401 and AB 2097 are interesting in their own right. But, more importantly, these debates represent a changing political landscape around parking reform. Policymakers now increasingly acknowledge that parking minimums are outdated and harmful.

Parking reform is picking up steam both nationally and here in California. Many California cities—including San Diego, San Francisco, Fresno, Berkeley, and others—already had placed limits on where parking requirements apply before AB 2097 came to the fore. San Diego implemented similar reforms to AB 2097 without harmful effects. In fact, the city's reforms resulted in more affordable housing production, not less, as AB 2097 and AB 1401's opponents would have liked state lawmakers to believe.

Importantly, to get reform over the finish line, advocates of abolishing parking minimums learned that they could not become complacent. Opponents of reform are persistent, despite the years of research and evidence from cities that have already embraced reform. Getting rid of parking minimums works in theory and in reality. But opponents remain focused on car-centric urban planning. It is difficult for folks who live, shop, and work in environments built for cars to imagine a future with fewer cars, even if our present reality of traffic-ridden streets, endless sprawl, and subpar public transit clearly warrants change.

What motivates these ardent opponents is a love for local control, which does benefit a select few. If you are an anti-growth homeowner, for example, you are likely to favor local control over parking policy. Parking minimums are a tool for affluent residents to undercut the viability of multifamily housing and thus guarantee that their most valuable asset continues to appreciate. Everything that parking minimums do *for parking* is irrelevant to these stakeholders.

Nonetheless, such supporters of local control can court progressive grassroots organizations by claiming that parking requirements protect affordable housing and disempower developers. But local control advocates only seem to care about affordability when it is convenient. All the other policies they support, from single-family zoning to discretionary review for new apartments, tend to limit the supply of affordable housing.

The debate over parking reform in Sacramento raises the fundamental question of why parking became so political. Some might say that parking is political because people care about access, and want public policy to protect their preferred travel modes. But, in theory, many groups should favor parking reform. Libertarians care about limiting government overreach. Liberals care about averting the climate crisis. Leftists care about curtailing government corruption and backroom deals with developers. Drivers care about alleviating traffic. Public transit users care about making transit more convenient and reliable. Elected officials care about advancing innovative and exciting policy solutions. Parking reform serves all these goals at once.

But parking reform is political because parking minimums make parking into a political issue. Planners set parking minimums that are then intensely negotiated, and in many cases, bargained away. In their quest to make affordable housing easier to build, state lawmakers have taken it upon themselves to decide which projects deserve relief from parking minimums and which do not. However, if we simply let developers and property owners decide how much parking to provide, it would make the lives of policymakers and property owners immeasurably easier. In this sense, the intensity of the debate over parking reform is itself an argument for reform. AB 2097's success is a lesson for parking reform advocates that sustained advocacy eventually bears fruit.

Endnotes:

[1] Donald Shoup, "Introduction," in *Parking and The City*, 1st ed. (New York: Routledge, 2018), 1–55.
[2] Madison Parsley, "Billion Dollar 'District NoHo' Development Will Have Segregated Housing," *Knock LA*, April 10, 2022, https://knock-la.com/district-noho-development-segregated-affordable-housing/.
[3] Nolan Gray and Emily Hamilton, "The Case for Ending Parking Requirements in Downtown Los Angeles" (The Center for Market Urbanism, April 2018).
[4] Eric Jaffe, "How Parking Conquered Los Angeles, in 14 Facts, Maps, and Figures," *Bloomberg.Com*, December 3, 2015, sec. Transportation, https://www.bloomberg.com/news/articles/2015-12-03/how-parking-conquered-los-angeles-in-14-facts-maps-and-figures.
[5] Richard Wilson, "Parking Reform Made Easy," in *Parking and The City*, by Donald Shoup, 1st ed. (New York: Routledge, 2018), 213–22.
[6] Donald Shoup, *The High Cost of Free Parking*, 1st Edition (New York: Routledge, 2005), https://doi.org/10.4324/9781351179539.
[7] Rider Levett Bucknall, "North America Quarterly Construction Report: Q1 2022" (Rider Levett Bucknall, 2022).
[8] Sofia Franco, W. Cutter, and Skyler Lewis, "The Shadow Cost of Parking Minimums: Evidence from Los Angeles County," *Pomona Economics*, August 10, 2020, https://scholarship.claremont.edu/pomona_fac_econ/11.
[9] Richard W. Willson, "Suburban Parking Requirements: A Tacit Policy for Automobile Use and Sprawl," *Journal of the American Planning Association* 61, no. 1 (March 31, 1995): 29–42, https://doi.org/10.1080/01944369508975617.
[10] Adam Millard-Ball et al., "What Do Residential Lotteries Show Us about Transportation Choices?," *Urban Studies* 59, no. 2 (February 1, 2022): 434–52, https://doi.org/10.1177/0042098021995139.
[11] Christopher T. McCahill et al., "Effects of Parking Provision on Automobile Use in Cities: Inferring Causality," *Transportation Research Record* 2543, no. 1 (January 1, 2016): 159–65, https://doi.org/10.3141/2543-19.
[12] Ross Brown, Paul Golaszewski, and Brian Brown, "Assessing California's Climate Policies—Transportation" (California Legislative Analyst's Office, December 21, 2018), https://lao.ca.gov/Publications/report/3912#Vehicle_Miles_Traveled.
[13] Todd Litman, "Parking Requirement Impacts on Housing Affordability" (Victoria Transport Policy Institute, June 25, 2021).
[14] Parking Reform Network, "Parking Mandates Map," 2022, https://parkingreform.org/resources/mandates-map/.
[15] Parking Reform Network.
[16] Irvin Dawid, "San Diego Unbundles Parking, Eliminates Parking Minimums and Sets Maximums," *Planetizen*, March 22, 2019, sec. News, https://www.planetizen.com/news/2019/03/103495-san-diego-unbundles-parking-eliminates-parking-minimums-and-sets-maximums.
[17] Anthony Dedousis, Mott Smith, and Michael Manville, "Parking Requirements Are Not a Useful Bargaining Chip for Increasing Affordable Housing," *Streetsblog California* (blog), May 19, 2021, https://cal.streetsblog.org/2021/05/19/parking-requirements-are-not-a-useful-bargaining-chip-for-increasing-affordable-housing/.
[18] Keith Duncan, "Fiscal Year 2022-23 California Transportation Financing Package" (California Department of Transportation, April 8, 2022).
[19] Donald Shoup, "The High Cost of Minimum Parking Requirements," 2014, 87–113, https://doi.org/10.1108/S2044-994120140000005011.
[20] Lisa Engel, "AB 1401 Bill Analysis" (Assembly Committee on Housing and Community Development, April 29, 2021).
[21] David Tuzman, "Assembly Bill 1401: Rest in Smog," *San Mateo Daily Journal*, September 2, 2021, https://www.smdailyjournal.com/opinion/guest_perspectives/assembly-bill-1401-rest-in-smog/article_d34843c4-0b8d-11ec-beda-6ba8a2c71803.html.
[22] Damien Newton, "Wait 'Til Next Year: Parking Reform Bill Pulled from Assembly Committee," *Streetsblog Los Angeles* (blog), July 5, 2012, https://la.streetsblog.org/2012/07/05/wait-til-next-year-parking-reform-bill-pulled-from-assembly-committee/.
[23] Engel, "AB 1401 Bill Analysis."

[24] Anthony Dedousis, "Our First State Bill," *Abundant Housing LA* (blog), April 1, 2021, https://abundanthousingla.org/our-first-state-bill/.
[25] Louis Mirante, "Support — AB 1401 — Residential and Commercial Development: Parking Requirements.," February 26, 2021, https://cayimby.org/wp-content/uploads/2021/04/AB-1401-2021-Support.pdf.
[26] Jason Rhine, "RE: AB 1401 (Friedman) Residential and Commercial Development. Parking Requirements. Notice of Opposition (As Amended 4/5/2021)" (League of California Cities, April 7, 2021).
[27] Rick Hall, T Keith Gurnee, and Carey White, "Subject: OPPOSE AB 1401 (Friedman) as Amended 4/5/21" (Livable California, April 7, 2021).
[28] Alison Hughes, "AB 1401 Bill Analysis" (Senate Committee on Housing, July 8, 2021).
[29] Engel, "AB 1401 Bill Analysis."
[30] Dedousis, Smith, and Manville, "Parking Requirements Are Not a Useful Bargaining Chip for Increasing Affordable Housing."
[31] Eric Phillips, "Support If Amended for AB 1401" (American Planning Association California Chapter, April 14, 2021), https://www.apacalifornia.org/wp-content/uploads/2021/04/AB-1401-SIA-Author-Letter-1.pdf.
[32] David Garcia and Julian Tucker, "How AB 1401 May Impact Residential Parking Requirements" (Terner Center for Housing Innovation, April 13, 2021), https://ternercenter.berkeley.edu/research-and-policy/ab-1401-residential-parking-requirements/.
[33] Dedousis, Smith, and Manville, "Parking Requirements Are Not a Useful Bargaining Chip for Increasing Affordable Housing."
[34] Michael Manville, "Value Capture Reconsidered: What If L.A. Was Actually Building Too Little?" (UCLA Lewis Center, June 17, 2021), https://www.lewis.ucla.edu/research/value-capture-reconsidered/.
[35] Michael Manville and Taner Osman, "Motivations for Growth Revolts: Discretion and Pretext as Sources of Development Conflict," *City & Community* 16, no. 1 (March 1, 2017): 66–85, https://doi.org/10.1111/cico.12223; Daniel Herriges, "Pretextual Planning Is Absolutely Everywhere," *Strong Towns* (blog), April 29, 2021, https://www.strongtowns.org/journal/2021/4/29/pretextual-planning-is-absolutely-everywhere.
[36] Alison Hughes, "SB 1067 Bill Analysis" (Senate Committee on Housing, April 27, 2022).
[37] Hughes.
[38] Hughes.
[39] California Legislative Information System, "Bill History - SB-1067 Housing Development Projects: Automobile Parking Requirements.," May 26, 2022, https://leginfo.legislature.ca.gov/faces/billHistoryClient.xhtml?bill_id=202120220SB1067.
[40] Hughes, "SB 1067 Bill Analysis."
[41] Jeremy Smith, "RE: SB 1067 (Portantino) - STRONG OPPOSE" (State Building and Construction Trades Council of California, March 29, 2022).
[42] Manuela Tobias, "Anti-Worker or pro-Worker? Why Labor Unions Are Fighting over a Housing Bill," *CalMatters*, May 9, 2022, sec. Housing, http://calmatters.org/housing/2022/05/california-housing-crisis-unions/.
[43] Anton Favorini-Casorba, "AB 2097 Bill Analysis" (Senate Rules Committee, August 26, 2022).
[44] Mott Smith, Re: AB 2097, Phone Interview, April 26, 2022.

Chapter 5

Playa Vista: LA's Model in Sustainable Development

Jois Talla

Jois Talla was a student in UCLA course Public Policy 145 (California Policy Issues) winter 2022. This chapter is based on a research project for that course.

Located on Los Angeles' westside, a few miles north of the LAX airport, the neighborhood of Playa Vista is one of the first master-planned, mixed-use communities to be built in Los Angeles in the last 50 years. Unlike the gradual development of the rest of the megacity, Playa Vista was a veritable blank slate to developers, city planners, and politicians. As the largest tract of undeveloped land on the city's westside, its development is one of the more complex cases of urban infill development in Southern California history.

Playa Vista planners aimed to build a community that encouraged community engagement of small towns with the nearby amenities and conveniences common to urban cities. Developers of the Playa Vista project faced protests driven by environmental concerns, real estate economic downturns, and 20 different lawsuits spanning decades. Its eventual completion demonstrates that high-density, mixed-use development could be incorporated in non-city centers. As one of the earliest planned communities influenced by the New Urbanist movement, the neighborhood currently is thriving as a media and tech hub with widely-praised sustainability efforts. Playa Vista's struggles in its development provide insight into how urban development can incorporate consensus building and prioritize environmental sustainability.

History

Before its acquisition by aviator and businessman Howard Hughes, much of the land occupied by Playa Vista was part of the larger Ballona Creek watershed, a wetland ecosystem with a plethora of biologically-diverse wildlife. Howard Hughes bought the land that was modern-day Playa Vista in 1941 to serve as a private airfield and space for an aircraft factory, made famous with its production of the Spruce Goose airplane. After Hughes died in 1976, his lack of a will resulted in most of the company's assets being sold off and the historic aircraft hangars being abandoned by 1984. Summa Corp, a firm formed in 1972 to manage Hughes' business holdings, began drafting plans as early as 1978 to develop the land (Gnerre, 2020).

Summa Corp.'s Plan

Summa Corp. planners imagined a "city within a city." The proposed master plan involved 1,087 acres filled with skyscrapers for office buildings, thousands of single-family dwellings, roadways through the Ballona Wetlands, hotel resorts, and a golf course (Vincent & Groves, 2003). Concern from local environmentalists and communities over the impact of increased traffic and pollution harming the Santa Monica Bay and its wildlife halted development even as the California Coastal Commission approved the project in 1984 (Vincent & Groves, 2003).

Political Fallout

Protests from the community were influential enough to have political consequences. LA city councilwoman Ruth Galanter was elected in 1987 in part because of her strong opposition to Summa Corp.'s proposed master plan. Aside from her environmentalist-driven motivations, Galanter firmly believed that the lack of a jobs-housing balance was at the root of west Los Angeles' housing crisis ("Maguire Thomas," 1990).

Jobs-housing balance was a popular topic of research in the 1990s, as housing affordability began to worsen and city officials fruitlessly tried to mitigate the housing crisis that pushed workers to live farther away and rely on their cars to make longer commutes (Demers, 2021). Galanter's upset defeat of incumbent and City Council President Pat Russell highlighted the increasing importance of growth issues within Los Angeles and made apparent the influence of local communities. Galanter's concern over the effects development had on traffic congestion, neighborhood tranquility, and air and water pollution translated into eventually fatal opposition to Summa Corp.'s proposed development plan ("L.A. Council overrules planning," 2001).

Timeline of Development (1989-2015)

In February 1989, Maguire Thomas Partners, one of the largest builders in LA, took over the project with a new aim to increase the city's housing supply by turning the site into a high-density, mixed-use community. Early discussions with Councilwoman Galanter made clear the project would have no support unless the master plan addressed community concerns (Russel, 1993). Nelson C. Rising, project manager and senior partner at Maguire Thomas was appointed for his presumed capacity to pacify environmentalists and build with consideration for the community, all while maximizing profit (Vincent & Groves, 2003).

Playa Vista had the support of City Councilmembers, who thought of the potential increase in housing and jobs a master-planned community could bring to the Westside. In 1995, LA city officials allocated the developers $35 million in job tax credits to help developers in their attempt to sign DreamWorks to the project as the main anchor of a planned studio complex (McGreevy, 1999). For four years, the film company considered building a media campus, but a deal failed to be cemented (Bates, 1999). Despite the loss of the allocated tax credits, the City Council continued to work with Playa Vista's developers in creating a 'master design ordinance.' This ordinance enabled developers to administer the project internally and within the ordinance's guidelines instead of appealing for approval of every decision ("Steve Soboroff's Enthusiasm," 2003).

The City Council's support did little to halt civil lawsuits against development on the wetlands, a majority of them under the California Environmental Quality Act. The lawsuits and bureaucratic red tape cost Maguire Thomas both money and time. In 1997, the company defaulted on payments to its lenders and lost control of almost all of its stakes. A group led by Morgan Stanley and Goldman Sachs took control of the project. The new company that became Playa Capital Corporation paid the lenders about $120 million to buy the property (Vincent & Groves, 2003).

In 1993, the L.A. City Council gave its approval to the Playa Vista project with a 12-0 vote. Construction on its first phase, encompassing one-third of the tract, began in 2000. Phase 2 gained final approval in 2010 ("Playa Vista Gets," 2012). The second and final phase completes the community with a 114-acre commercial district, The Village at Playa Vista, that contains Playa Vista's core known as The Runway, a mixed-use space made up of retail and other commercial businesses (Vincent & Groves, 2003).

Creation of Playa Vista

Two years after construction of its first phase of development, the *LA Times* declared Playa Vista, "LA's Urban Model," praising its efforts in balancing the needs of the environment and community with the demand for housing (Vincent & Groves, 2003). This support was largely due to the environmental mitigation efforts implemented by various developers, as well as to the fact that much of Playa Vista's current design was influenced by Maguire Thomas' master plan.

Reaching for the New Urbanist Ideal

Nelson Rising enacted a team approach to planning, recruiting progressive architects and urban planners to his team. This core group of consultants went on to establish a development and planning approach later called New Urbanism (Lewis, 2019). Their ideas from this burgeoning New Urbanist movement would play a large role in Playa Vista's appeal to residential and commercial tenants (Halper, 2001).

New Urbanism touts itself as "human-scaled urban design," with common features being walkable blocks and streets, housing and shopping in close proximity, and accessible public spaces. New Urbanists of the 1990s largely valued the neighborhoods of pre-WWII development and opposed the low-density, segregated-use development that exacerbated car usage and suburban sprawl (Miranda, 2019). A major argument of New Urbanism was that the design of cities which prioritize automobiles negates the social and economic benefits of

pedestrian traffic. Ideal New Urbanist communities could eliminate long commutes, traffic congestion, and air pollution, thereby increasing the convenience and stimulating vibrant economic activity (Steuteville, 2020).

Criticisms of New Urbanism largely focus on whether regressing to traditional notions of pre-1940s neighborhood design was the way to achieve social objectives. For investors and city officials in the 1990s, the main issue was that many severely doubted the ability of retail in a small town setting could compete with the massive "big-box" retailers, such as mini-malls, that were more popular (Fulton, 1996).

Consensus building as a tool for urban development

In 1989, Rising held workshop meetings called *charrettes* with urban planning experts as well as for local residents, government officials, and environmental groups to open the planning process to the public. The use of charrettes addressed multiple stakeholder concerns early in the planning process, in order to potentially streamline the overall development (Moran, 1989). Along with addressing the concerns of Playa Vista's stakeholders brought to the table, the representatives of Maguire Thomas used charrettes to introduce to stakeholders the concept of higher density and mixed-use development. Most importantly, they stressed the benefits of density and diversity of housing that would enable people to live a short distance to where they work and shop (Vincent & Groves, 2003).

Participatory planning methods such as charrettes are becoming increasingly common community planning tools to address controversial public issues with the entire community, with multiple interests to consider. Charrettes focus on the design of the community and forming an implementation plan. They provide the space for people to work together to solve divisive issues in a short amount of time (from a few days to a week) in various brainstorming, sketching, and feedback sessions. Participatory planning processes overall build trust and reduce fears of change among community members as well as change perceptions through "collaboration by design" (Madill et al., 2018).

The end result demonstrates the effectiveness of including the community within the design process. As described in the original charrettes, Playa Vista became a pedestrian-oriented community, with mixed-use buildings and closeby amenities for residents. Additional collaborative planning efforts involving planners and the community occurred in the project's conservation and habitat restoration efforts.

Environmental Mitigation and Sustainability

Today, Playa Vista encompasses 460 acres—less than half of the 1,087 acres originally set for the development under Summa Corps. The rest of the land was set aside, either bought by the state or in the private hands of conservationists, largely due to the victories and concessions hard-won by environmentalists over Playa Vista's varied developers (Brass, 2017).

Playa Vista developers' response to protests against the development has been to emphasize preservation and restoration. A $10 million lawsuit settlement filed by the Friends of Ballona Wetlands, led to Maguire Thomas funding the restoration of 345 acres of wetlands west of Lincoln Blvd (Gnerre, 2020). In 2002, this environmental mitigation effort went further when Playa Vista donated funds to help pass Proposition 50, a water bond that had set aside money for open space wetlands preservation through purchase acquisition ("Steve Soboroff's Enthusiasm," 2003).

A year later, the measure passed, and the state approved nearly $140 million to purchase nearly 200 acres of wetlands west of Lincoln Blvd from Playa Vista's owner. As a part of this deal, Playa Capital also agreed to donate or waive its development rights to nearly 364 additional acres (Groves, 2003).

Today, Playa Vista is a model for how urban centers can utilize technology and smart growth development to promote environmental sustainability. Immediately to the west of Playa Vista are the Ballona Wetlands, a 600-acre preserve occupied by hundreds of species of birds and other wildlife (McLaughlin, 2018). Playa Capital designed and created a 25-acre riparian corridor (built in 2008) and a 26-acre freshwater marsh (built in 2003) to treat stormwater naturally before it enters the wetlands and Santa Monica Bay. As a result, runoff water traveling through the riparian corridor and freshwater marsh is cleansed before it feeds into the restored wetlands ("Playa Vista: LA's," 2019*)*.

Lessons Learned

Despite the various litigation troubles and halts in development, developers of Playa Vista succeeded in creating a community that is now home to more than ten thousand people. The community is a shining example of high-density, mixed-use development creating a strong foundation for community engagement and environmental sustainability. At the same time, Playa Vista's shortcomings have drawn the attention of critics, who debate whether the project achieved its goal in truly creating a mixed-use, walkable community. It could be reasonably claimed that after decades of planning and development, the vision of Playa Vista became

muddled. Many aspects of the Playa Vista project would serve as valuable lessons in sustainable development in California.

Where Playa Vista succeeded

In the recent decade, Playa Vista has flourished as a veritable tech hub, becoming a part of what is sometimes called "Silicon Beach." The westside community is currently home to tech and media giants such as Microsoft, YouTube, Facebook, IMAX, and Yahoo. Google has made its home in the space of the former 'Spruce Goose' hangar (Brass, 2017). Playa Vista's place branding in recent years has successfully lured new residents and businesses as a trendy 'live-work-play community,' and as a walkable community.

As modern technology continues to revolutionize how people work, shop and entertain themselves, it becomes more apparent that there is a market for dense, urban living. Playa Vista produces the appeal of the 'live-work-play community' through high-density development, car-free green spaces, and functionally-flexible workplaces. For example, Runway, a lifestyle center hosting a number of retailers and restaurants, also provides apartments for rent (McLaughlin, 2018). These living spaces are a part of Playa Vista's larger effort to increase the housing supply for people of all incomes on the westside.

In its long period of development, LA city officials negotiated a deal that sets aside 15% of all apartments and more than 10% of sale units for low- and moderate-income renters and buyers. These spaces, like the surrounding market-rate apartments, come with open light, amenities such as a free gym and spacious community rooms, landscaped gardens, and easy access to nearby restaurants and stores. This approach was largely accomplished through the availability of tax credits for the investors in the Playa Vista project who could receive a federal tax break for investing in affordable housing (Lopez, 2017).

More importantly, the high-density, mixed-use planning design in Playa Vista is environmentally sustainable. Within the 460 acres, there are over six thousand homes, green space, creative offices, retail spaces and community-serving facilities. Walkable communities reduce carbon emissions throughout a community and promote healthy, active living. In addition, Playa Vista's newest homes and offices are LEED-certified (Leadership in Energy and Environmental Design), signifying that they reduce gas emissions, require less maintenance and have cheaper water and electric bills ("Playa Vista: LA's," 2019*)*. Given Playa Vista's example, future development projects will be able to utilize sustainability-driven urban planning and city management to address city-wide environmental impact.

Where Playa Vista fell short

Despite its encouragement of walking and bicycling, Playa Vista still has vestiges of sprawl planning. Many of Playa Vista's critics in fact doubt Playa Vista's success in ensuring the community's walkability. Some critics point to the design of the buildings and the too-narrow sidewalk as being "unwelcoming" to pedestrian-traffic (Newman, 2004). Another potential deficiency is the office campus located on most of the eastern portion of Playa Vista. The office buildings, which do not display the same mixed-use design as the rest of the community, are surrounded by parking lots and their semi-isolated nature might induce many of its employees to drive to work. (Sharp, 2021). In order to promote sustainability, Playa Vista's planners could have avoided creating a sprawling office park entirely and taken a more progressive approach to urban design.

More notably, Playa Vista is woefully isolated from rail transit links on the westside of Los Angeles. Unless one decides to drive the 405 freeway, even getting to Playa Vista from LAX less than five miles south could take an hour by bus and a fair amount of walking. The closest rail line is seven miles away in El Segundo or five miles to the east in Culver City, both of which would require a local bus to complete the trip (Barragan, 2015). This lack of public transportation is concerning considering the volume of traffic Yahoo, Google and the other Silicon Beach businesses will bring to the largely rail transit-free Playa Vista and neighboring communities. Especially in this post-pandemic transition period, cities which do not consider seriously investing in transit infrastructure can miss out on efficient spatial mobility for all residents and workers—a factor linked to increased socioeconomic mobility and a thriving economy (Chetty & Hendren, 2018, Bouchard, 2015).

Conclusion

The completion of Playa Vista can be credited to the partnership of the City of Los Angeles, private developers, planners, and - most crucially - its community members. Despite its potential flaws, Playa Vista as it stands today showcases the potential of urban planning initiatives that strongly prioritize participatory planning and truly innovative and expansive environmental mitigation. By emphasizing higher-density development, mixed-use buildings and increased accessibility to alternative modes of transportation, similar urban developments in California can lead to more sustainable cities in the future.

Works Cited

Barragan, B. (2015, January 16). *Los Angeles's Hottest Office Hub is a Public Transit Dead Zone*. Curbed LA. Retrieved 24 February 2022, from https://la.curbed.com/2015/1/16/10001288/los-angeless-hottest-office-hub-is-a-public-transit-dead-zone.

Bates, J. (1999, July 2). *DreamWorks kills Studio Plan for playa vista*. Los Angeles Times. Retrieved September 25, 2022, from https://www.latimes.com/archives/la-xpm-1999-jul-02-mn-52300-story.html

Bouchard, M. (2015, May 7). *Transportation emerges as crucial to escaping poverty*. The New York Times. Retrieved February 24, 2022, from https://www.nytimes.com/2015/05/07/upshot/transportation-emerges-as-crucial-to-escaping-poverty.html

Brass, K. (2017, November 27). *Playa Vista: From spruce goose to google*. Urban Land Magazine. Retrieved February 24, 2022, from https://urbanland.uli.org/development-business/playa-vista-spruce-goose-google/

Broberg, B. (2020, October 30). *The 2020 Nar Community Preference Survey*. www.nar.realtor. Retrieved February 24, 2022, from https://www.nar.realtor/on-common-ground/the-2020-nar-community-preference-survey

Chetty, R. & Hendren, N. (2018, August 3). *The Impacts of Neighborhoods on Intergenerational Mobility II: County-Level Estimates.* The Quarterly Journal of Economics, Volume 133, Issue 3, Pages 1163–1228, *https://doi.org/10.1093/qje/qjy006*

Demers, B. (2021, September). *Measuring the jobs-housing balance in California*. American Planning Association. Retrieved February 23, 2022, from https://www.planning.org/blog/9220914/measuring-the-jobs-housing-balance-in-california/

Fulton, W. (1996, November). *New urbanism: hope or hype for American communities*. The Lincoln Institute for Land Policy. Retrieved February 24, 2022, from https://www.lincolninst.edu/sites/default/files/pubfiles/the-new-urbanism-full.pdf

Gnerre, S. (2020, March 23). *South Bay History: How playa vista sprang up from scratch at the foot of the Westchester Bluffs*. Daily Breeze. Retrieved February 23, 2022, from https://www.dailybreeze.com/2020/03/23/south-bay-history-how-playa-vista-sprang-up-from-scratch-at-the-foot-of-the-westchester-bluffs

Groves, M. (2003, December 20). State to finalize its purchase of Ballona Wetlands. Los Angeles Times. Retrieved February 24, 2022, from https://www.latimes.com/archives/la-xpm-2003-dec-19-me-ballona19-story.html

Halper, E. (2001, October 21). *New Urbanism Housing Style filling a void*. Los Angeles Times. Retrieved February 24, 2022, from https://www.latimes.com/archives/la-xpm-2001-oct-21-me-59777-story.html

L.A. Council overrules planning: Housing Trumps Industrial Land Use. The Planning Report. (2001, June). Retrieved February 23, 2022, from https://www.planningreport.com/2001/06/01/la-council-overrules-planning-housing-trumps-industrial-land-use

Lewis, A. (2019, May 22). *Playa Vista was going to be a utopian planned community. but capitalism's harsh reality keeps creeping in*. LA Weekly. Retrieved February 23, 2022, from https://www.laweekly.com/playa-vista-was-going-to-be-a-utopian-planned-community-but-capitalisms-harsh-reality

Lopez, S. (2017, August 26). *Column: A Westside apartment with all the amenities for less than $500 - but you had to win the lottery*. Los Angeles Times. Retrieved September 28, 2022, from https://www.latimes.com/local/california/la-me-lopez-playa-woods-20170826-story.html

Madill, H., Lennertz, B., & Beyea, W. (2018, November). *Crafting charrettes that transform communities*. American Planning Association. Retrieved February 24, 2022, from https://www.planning.org/pas/memo/2018/nov/

Maguire Thomas on Playa Vista: Biggest hurdle is approvals process. The Planning Report. (1990, November). Retrieved February 24, 2022, from https://www.planningreport.com/1990/11/30/maguire-thomas-playa-vista-biggest-hurdle-approvals-process

McGreevy, P. (1999, May 13). *Council Oks Incentives for playa vista*. Los Angeles Times. Retrieved February 24, 2022, from https://www.latimes.com/archives/la-xpm-1999-may-13-me-36793-story.html

McLaughlin, K. (2018, April 12). *L.A.'s new Playa Vista neighborhood is where Silicon Valley meets Southern California*. The Wall Street Journal. Retrieved February 24, 2022, from https://www.wsj.com/articles/l-a-s-new-playa-vista-neighborhood-is-where-silicon-valley-meets-southern-california-1523541600

Miranda, C. A. (2019, May 22). *Bunker Hill once was a neighborhood. then progress came to town*. Los Angeles Times. Retrieved February 23, 2022, from https://www.latimes.com/entertainment/arts/miranda/la-et-grand-avenue-history-2019-story.html

Moran, J. (1989, June 18). *Developer sets open meeting on land uses for Playa Vista*. Los Angeles Times. Retrieved February 23, 2022, from https://www.latimes.com/archives/la-xpm-1989-06-18-we-3487-story.html

Newman, M. (2004, November 30). *Playa Vista doesn't meet expectations*. California Planning and Development Report. Retrieved September 28, 2022, from https://www.cp-dr.com/articles/node-556

Playa Vista Gets the Green Light to Phase II. The Planning Report. (2012, April). Retrieved February 23, 2022, from https://www.planningreport.com/issue/may-2012

Playa Vista: LA's urban model sustainability case study. (2019). Playa Vista.com. Retrieved 24 February 2022, from https://playavista.com/shared/2017/04/PlayaVistaSustainabilityCaseStudy.pdf?x31669.

Russel, R. (1993, September 26). *Playa Vista Vote casts shadow across Councilwoman's Future : Analysis: Critics Say Ruth Galanter betrayed her environmental stance by voting for the massive project. supporters say she got the best deal for the community.* Los Angeles Times. Retrieved February 24, 2022, from https://www.latimes.com/archives/la-xpm-1993-09-26-me-39465-story.html

Sharp, S. (2021, November 5). *Fresh renderings for Playa Vista Office Campus*. Urbanize LA. Retrieved September 28, 2022, from https://la.urbanize.city/post/fresh-renderings-playa-vista-office-campus

Steuteville, R. (2020, February 19). *How new urbanism research could build better cities*. CNU. Retrieved February 24, 2022, from https://www.cnu.org/publicsquare/2020/02/17/how-new-urbanism-research-could-build-better-cities

Steve Soboroff's enthusiasm for Playa Vista is contagious. The Planning Report. (2003, November). Retrieved February 24, 2022, from https://www.planningreport.com/2003/11/19/steve-soboroffs-enthusiasm-playa-vista-contagious

Vincent, R., & Groves, M. (2003, October 22). *L.A.'s Urban Model*. Los Angeles Times. Retrieved February 23, 2022, from https://www.latimes.com/archives/la-xpm-2003-oct-18-fi-playa18-story.html

Chapter 6

Designing a Carsharing Pilot Program for Los Angeles

Michaela Byrd, Richard Diaz, Steven King, Ha Luong and Atsushi Seto

The chapter is based on an Applied Policy Project (APP) report developed by the authors as part of their Master of Public Policy program at the UCLA Luskin School of Public Affairs. The full report is available from the authors. Information in the chapter is current through spring 2022 and does not reflect subsequent developments.

Access to safe, affordable, and reliable private vehicle transportation in Los Angeles (LA), and other major North American cities, is not equitably distributed. Many households struggle to afford private vehicles, especially in LA, due to the high cost of fuel, parking, maintenance, registration and insurance. According to the carsharing company Envoy, private car ownership frequently costs nearly $1,000 per month with all expenses included (Envoy Cost Comparison Flyer). These expenses create a lack of equitable access to private vehicles in LA, and members of many communities are unable to enjoy the full benefits that these vehicles bring. Likewise, a significant gap in equitable access to cars exists among ethnic groups in LA as approximately 22% of Native American, 21% of Black,13% of Asian and Pacific Islander, 13% of Latino, and only 8% of White households in Los Angeles did not own a vehicle as of 2019 (National Equity Atlas, 2019). This inequity has major implications on quality of life and limits access to economic opportunities.

Carsharing Alternatives

Carsharing, where users rent cars for short periods of time, either from a company's own fleet or from private individuals through a company's platform, offers a solution to improve private vehicle transportation equity in LA while also bringing other key benefits to the City. Carsharing services give drivers an alternative to owning a personal vehicle by offering lower upfront costs. This type of service allows many low-income households to access affordable private vehicles, provides drivers an incentive to lower their vehicle usage, and can reduce the number of vehicles on the road in the long term.

There are three main types of carshare models: station-based, free floating, and peer-to-peer (P2P). A station-based carsharing model is when a company owns a fleet of vehicles that users rent from, and return to, a designated station. In a free floating model, vehicles from a company's fleet can be picked up and dropped off within a designated zone. Finally, with P2P, private car owners make their vehicles available on a company's platform, and users rent vehicles in their area. The P2P model is especially promising because it makes use of widespread, existing vehicles. And it offers these private vehicle owners an additional stream of income.

Current Suppliers

Several companies dominate the current carsharing landscape in LA, with varying business models. BlueLA, a station-based carsharing service formed as a nonprofit partnership, has been operating since 2008. BlueLA vehicles are exclusively electric vehicles (EVs), available 24/7, and can be picked up and dropped off at 40 locations around LA. Standard Membership is $5 per month, and vehicles cost $0.20 per minute. Insurance and charging costs are included in these rates and lower pricing is offered to income-qualified members.

Envoy provides onsite mobility services, including electric carsharing and EV charging, for apartments, offices, and hotels. Envoy's service costs range from $0.15 - $0.50 per minute or

$45-$150 daily, depending on the car model (Envoy series a press release). Another carshare company, Mocean, operated exclusively in LA but ended service in 2021.

The two primary P2P operators in LA are Getaround and Turo. Founded in 2009, Getaround had more than five million users and 20,000 connected cars globally by 2019. Getaround cars' prices are set by the host, and the median price is around $8.36 per hour. Turo was founded in 2010 and within ten years had served over 14 million members in 7,500 cities and 56 countries with 450,000 vehicles, making it the world's largest carsharing marketplace (Ranking the top-earning cars on Turo | Turo Calculator).

Turo's average trip length is four days, and the trip price is around $330, allowing the host to have an average earning of $6,753. Like Getaround, Turo's vehicle prices are set by the hosts. The minimum cost is $30 per day, and owners earn around 60%-90% of the trip price. Consumers can rent the vehicles through an online website or a mobile app. The most booked vehicles are compact cars (20%), sport utility vehicles (SUV) and pickups (20%), and midsize cars (13%) (Lai, 2020).

Methodology

The research approach for this report broadly consisted of three main methodological strategies. A first strategy included a broad literature review of existing research on carsharing as well as an examination of case studies looking at the implementation of these services in other cities. The second strategy was quantitative research. For this, statistical analysis was performed on data obtained from various carshare companies which included trip and usage data, and user survey data.

The third and final strategy was qualitative methodology which involved interviews and discussions with carsharing stakeholders. The authors of this report spoke with representatives from Getaround, Envoy, Turo, Mocean, and Forth (a carsharing operator based in Portland, Oregon). Through these interviews, and correspondence with a representative from the Los Angeles Department of Transportation (LADOT), a deeper understanding of the challenges faced by carsharing providers, business trends, and other issues became clear.

Policy Context

Carsharing in the United States first emerged in the 1980s as an innovative shared transportation mode but failed in two separate demonstration projects due to inconsistent user income, vehicle use by non-members, inadequate pricing models, and breakdowns of fleet vehicles (Cohen & Shaheen, 2018). Since then, advances in telecommunications, wireless service, and online technologies have revolutionized the industry as carsharing programs have adopted automated reservation systems, and mobile apps to facilitate transactions.

The first major efforts to establish carsharing in LA began in 2005, when the City Council authorized LADOT to obtain letters of interest from carsharing companies to participate in a one-year pilot program (City of Los Angeles, City Council, 2005). Zipcar, then the largest carsharing company in the U.S., operated the first carshare program in the City, focusing operations in the areas surrounding the campuses of USC and UCLA. A few years later, in 2014, the City Council approved a multiple-provider carshare permit pilot program.

The next year, the City received a grant from the California Air Resources Board (CARB) for the Carsharing and Mobility Options in Disadvantaged Communities Pilot Project. This grant added 100 vehicles, 80% being EVs or plug-in hybrids, and 20% being HEVs, for placement in disadvantaged communities. In 2016, LADOT then initiated a contract with Blue California to begin the now highly successful program known as BlueLA operating in DTLA, Koreatown, Pico Union, and Westlake (City of Los Angeles, City Council, Transportation Committee, 2016).

In 2020, the City of LA received another CARB grant from the Sustainable Transportation Equity Project which awarded LADOT with just over $7 million, with a portion of the funds being earmarked for BlueLA. In addition to BlueLA, LA County Metropolitan Transportation Authority (Metro) has partnerships with both Getaround and Zipcar to provide vehicles at select Metro stations in LA County. With P2P efforts specifically, LADOT is reluctant to support and promote new programs aggressively due to complaints of residents who perceive that carsharing limits street parking (Lank et al., 2020).

Transportation Challenges in Los Angeles

LA is currently experiencing a host of transportation challenges that limits the wider adoption and implementation of carsharing efforts.

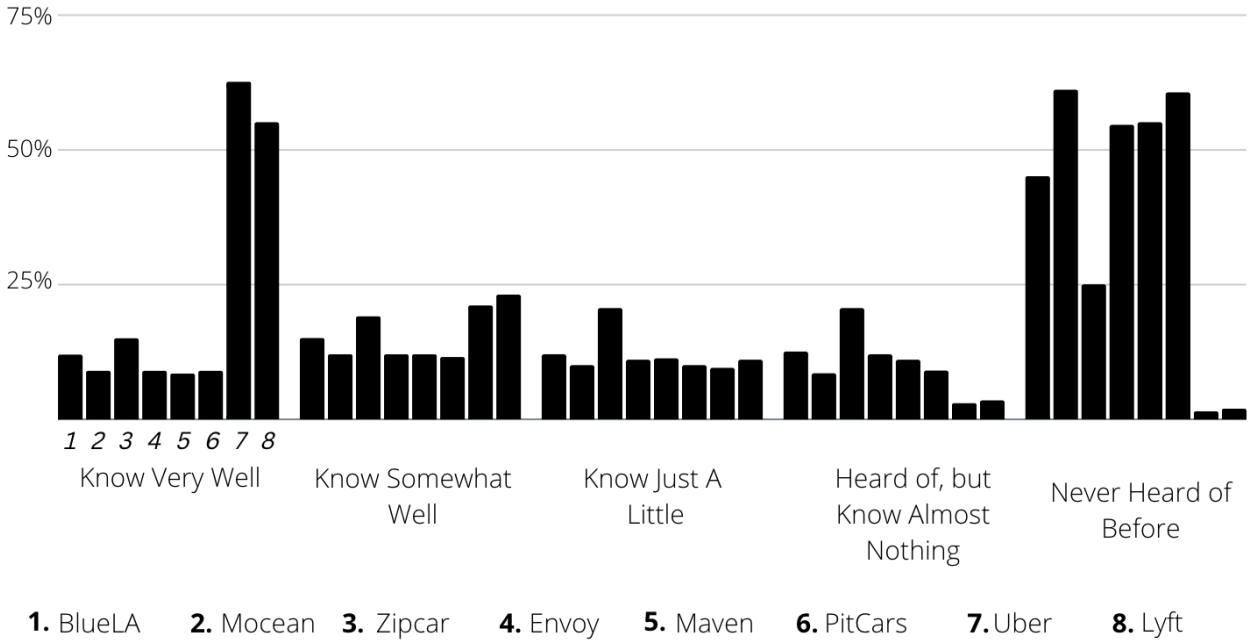
Lack of P2P Policies and Experience

The City of LA currently has no policy regarding P2P carsharing. This lack of existing policy also means uncertainty for the platform providers in starting a business. LADOT is still trying to understand the benefits and feasibility of P2P carsharing in LA.

Lack of Awareness and Misconceptions

People frequently mistake carsharing with ride-hailing services such as Uber and Lyft. Figure 1 reveals that the lack of awareness is more salient among those who have relatively low income and support the idea that greater awareness could lead to higher carshare usage.

Figure 1*: *Familiarity with the service



1. BlueLA **2.** Mocean **3.** Zipcar **4.** Envoy **5.** Maven **6.** PitCars **7.** Uber **8.** Lyft

Source: Mocean General Population Survey Wave 1-5

***Figure 2*:** *Familiarity with the service for people whose income is less than $100,000*

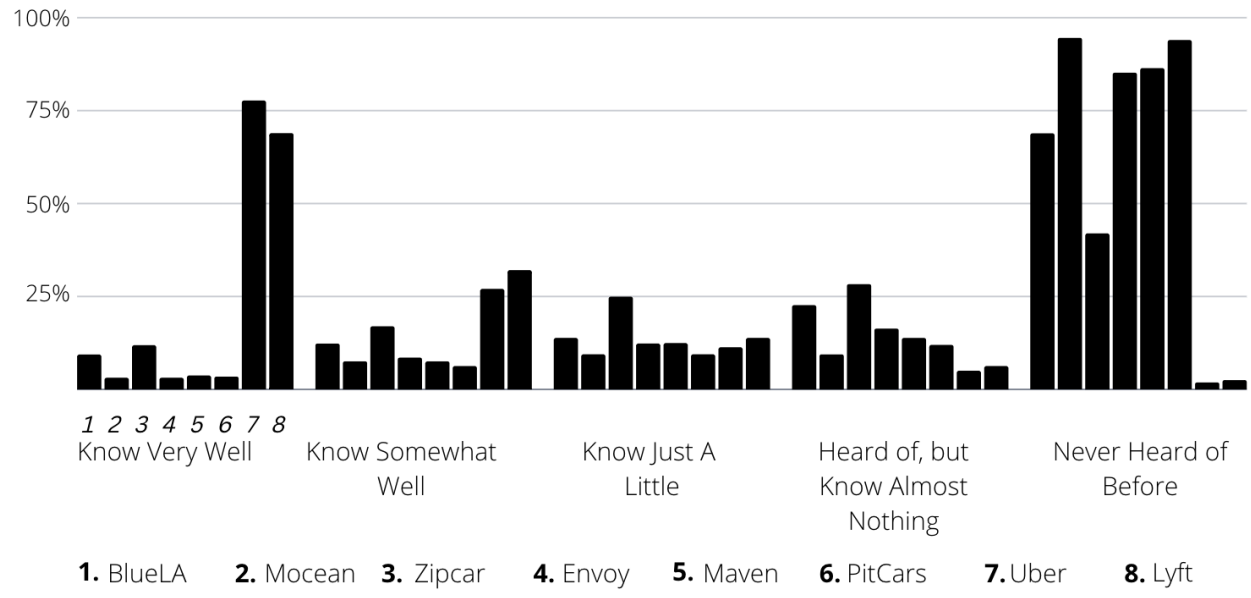


***Figure 3*:** *Familiarity with the service for people whose income is more than $100,000*

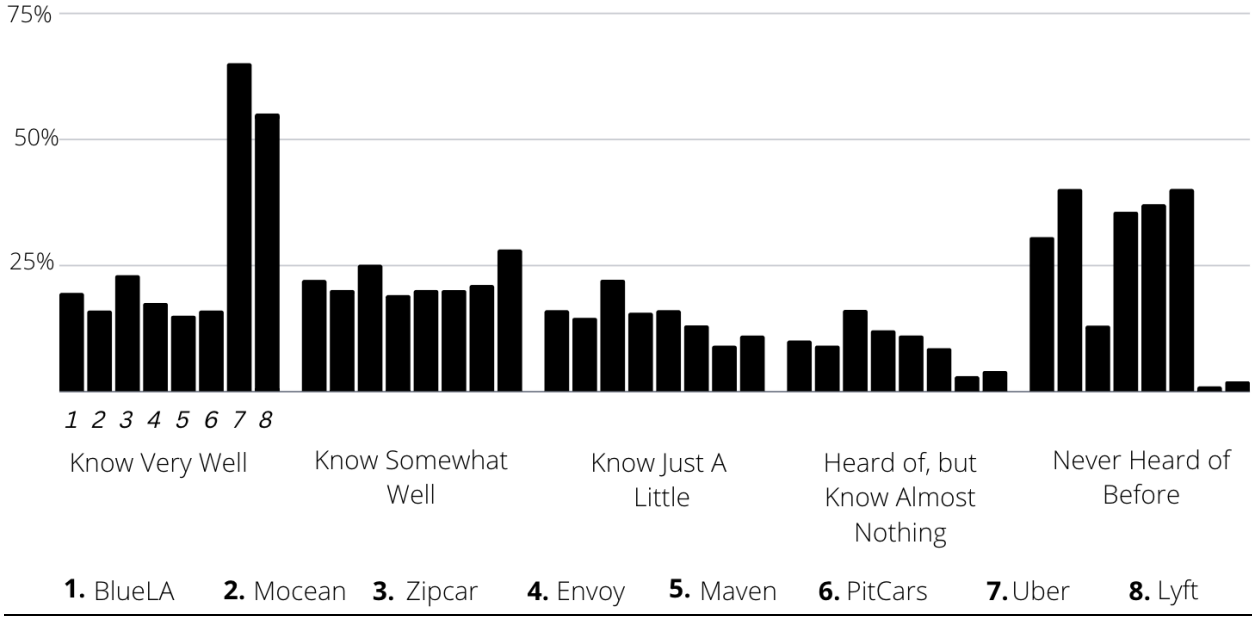


Table 1*: *Why people have yet to try carsharing

Answers to "what would you say are the key reasons why you have yet to try and use a carsharing service?" (n=1,162)	Percentage
Like using my own car, or Have my own car	23.6%
Do not know much about it	13.7%
Not available in my area or Did not know it was available	12.6%
Do not need it, or do not really go anywhere/work from home	9.4%
Expensive	8.8%
COVID-19 risk	7.2%
Not convenient	6.3%
Have not had the chance or opportunity yet	6.2%
Use other types of transportation (Public, Uber)	4.6%
Do not trust other people	4.4%

Concerns over Parking Impacts

Parking concerns are also a major challenge for carsharing. Often, new carshare programs will face opposition from stakeholders that fear the carshare operations will result in lost parking spaces. However, LADOT also stated that this opposition usually decreases once carsharing's benefits become clearer as more people use the service. Nonetheless, this misconception often acts as an obstacle to obtaining political support.

Psychological Obstacles to Using Others' Cars

Many drivers are not used to the concept of renting cars to and from strangers, which can lead to hesitancy around the concept. Potential users are afraid about consistent availability of cars, while car owners fear lending their cars to complete strangers.

***Table 2**: Reported reasons about why people do not support carsharing*

Answers to "why you don't support the idea of car sharing, as it relates to the good of society?" (n=164)	Percentage
Do not trust people, or dangerous	43.9%
Not interested	24.4%
Not safe (e.g, because of COVID-19)	24.4%
Not enough restrictions or regulated enough	3.7%
Other	5.5%
Nothing (NA)	1.2%
Do not know, or Not Sure	3.7%

***Table 3**: Reported reasons about why people are not interested in carsharing*

Answers to "what would you say are the key reasons why a car sharing service is of no interest to you? " (n=493)	Percentage
Like using my own car, or Have my own car	47.5%
Do not trust other people	14.6%
Do not need it	13.8%
Not convenient	9.1%
COVID-19 risk	8.9%
Not safe	8.1%
Cannot access it anytime I want	5.5%
Expensive	4.1%
Lack of availability	2.6%
Other	0.8%
Nothing (N/A)	2.2%
Do not Know/Not Sure	2.2%

Financial Sustainability

The City relies on private carshare companies to provide their services in LA. For non-P2P carsharing models, substantial costs for upfront investment and operations are a major hurdle. Companies must pay for vehicles, stations, operating costs, insurance, parking permits, and maintenance, all while providing an affordable and competitive price to consumers. To compensate for these high costs, service utilization and the per-vehicle usage rate must be high to keep revenues ahead of costs and prevent prices from being prohibitively expensive for users. This substantial initial cost and the need to achieve high usage makes for a highly competitive environment in this space, and business failures are common.

Affordability

Currently, carsharing users are mainly middle and higher-income populations. Based on a survey of Mocean's members, 70% of them earned above $50,000 per year. Most carsharing services charge low prices per minute or per hour, however, there are often other costs to consider like booking fees, protection insurance, fuel or electric fees, and delivery fees. Carsharing services may become unaffordable for lower-income populations, especially without discounted programs for income-qualified members.

***Table 4*:** Examples of the Fees Other Than Trip Prices

Company	Examples of the Other fees
Getaround	Booking fee: 3% ($1 minimum), License fee: $10 (one time), Under 25 fee, Fuel/electric fee The price includes a standard protection plan.
Turo	Trip fee: a total percentage of the daily rate, Protection: 18%-100% of the trip price, Young Driver fee (under 25), Delivery fee, Fuel/electric fee etc.
Envoy	-
Mocean	$0/month, $20/month - get $30credits, $50/month- get $80credits $100/month- get $100credits
BlueLA	$5/month (standard plan), $1/month (plan for low-income people)
Zipcar	$7/month or $70/year, Application fee: $25 (one time)

The Limited Availability of Non-P2P Carsharing Services

Although the City of LA has tried to expand non-P2P carsharing through BlueLA, its availability is still very limited. Expanding BlueLA would benefit people in neighborhoods where the service is not currently available. However, there are two main reasons that service availability is limited. First, non-P2P carshare companies must invest in new vehicles and facilities, incurring substantial upfront costs. Second, for carsharing services to be profitable, they must operate in neighborhoods where vehicles are in high-demand. Neighborhood characteristics, population density, walkability, and vehicle ownership rates, are critical factors driving demand.

Pandemic Impact

The COVID-19 pandemic affected all types of shared mobility services, including carsharing. Many businesses closed down, and some workplaces moved to remote working, which gave people less reason to go out for leisure, and work. The allure of owning private vehicles increased as many perceived shared transportation modes such as carsharing as unsafe (Global, 2020). Furthermore, carsharing usage decreased during the pandemic as people started to avoid using shared vehicles.

Key Opportunities

Many LA neighborhoods have characteristics conducive to a successful carsharing program. First, there are many communities with low private auto ownership rates that are likely to benefit greatly from the increased access to private vehicles that carsharing provides. This benefit could lead to a higher rate of community members willing to support carsharing. Second, there are also many high-density neighborhoods which make it more likely that carshare vehicles will have a high usage rate, thanks to a larger pool of nearby potential users. This potential usage improves the odds for local carshare operations to be financially

sustainable. Third, there are many areas in LA that already have a high usage rate of public transportation and other alternative modes of transportation, whose users are more likely to incorporate carsharing into their transportation habits.

A final reason that LA offers an excellent opportunity for expanded carsharing is that because there are many communities in the City with either a disproportionate percentage of high- or low-income households. This characteristic is important because populations on either end of the income spectrum have a high likelihood of supporting various carsharing business models. BlueLA serves as a great example of carsharing in disadvantaged communities within the City of LA and its success has lessened the stigma around EVs in these communities, and increased awareness of carsharing services. This history makes the communities of DTLA, Hollywood, Koreatown, Pico Union, and Westlake promising areas to pilot a P2P carsharing service.

Another compelling reason to promote carsharing, specifically P2P carsharing, is the potential to generate additional revenue for individual car owners. P2P operations are unique in that they allow owners to offer their vehicles to other members of the community for a fee when their cars are not being used. The additional income generated by making one's vehicle available on these platforms can be significant and takes relatively little effort. Lastly, carsharing also offers the opportunity to bring major environmental benefits to LA while taking additional cars off of local streets, reducing congestion, and freeing up land used currently as parking spaces for other purposes in the future.

Policy Option: P2P Pilot Program

As noted, P2P carsharing companies are not burdened by high vehicle costs, risks for continuous operation, and limitations for how fast to expand into new areas as other traditional non-P2P carsharing. The P2P model is therefore a viable way to promote equitable vehicle access. This policy option would create a partnership with an existing P2P carsharing company and promote the company's services.

The first component of the program is to enhance advertising efforts. Local transit agencies can help promote carsharing by offering discounted, or free advertising space on the sides of buses, transit stops, and the interior of transit vehicles. They have a strong incentive to do so as carsharing users tend to support and ride public transit. Also, local organizations can inform the community members of P2P carsharing availability and its benefits through educational materials. Another key policy lever is providing designated parking. Similar to existing special permits for carsharing services, LADOT can set aside parking spaces throughout the City where only vehicles registered with P2P platforms are allowed to park in exchange for annual fee payment.

The City of Boston has adopted a similar program by partnering with Getaround, which demonstrates the feasibility of this type of program. It should start with a small number of spaces, as few as ten to test its effectiveness before expansion. In order to balance equity and

high utilization rate, the pilot program aims at serving high-population neighborhoods with diverse racial backgrounds. Neighborhoods are chosen based on criteria such as population density, demographic characteristics, income level, vehicle ownership rates, walkability, public transit connections, and the availability of the other carsharing services.

Policy Option: Status Quo

Maintaining the current carsharing landscape and partnerships is also a potential option. LADOT is currently partnered with BlueLA, operating mainly around downtown LA. With grants the City received in 2021, BlueLA is in the process of tripling fleets (from 100 EVs to 300), expanding into new neighborhoods, and adding more EV charging stations (40 stations to 100 stations). Meanwhile, Metro has a partnership with Getaround (110 parking spaces at 27 Metro stations in LA County), and Zipcar (20 vehicles at ten Metro park-and-ride stations).

Policy Option: Expanding BlueLA

Another non-P2P carsharing option for LADOT is to further expand Blue LA's service beyond the current plan. Expanding further into more disadvantaged areas, and even into less-disadvantaged communities could bring more benefits while expanding awareness and knowledge of EVs across different communities.

Policy Option: Partnership

The City of LA could pursue more partnerships with other carsharing services. There are many other companies in LA that operate independently but could benefit from the City, such as Envoy or Zipcar. The City could support these companies through grants or subsidies, which will allow the expansion of fleets and operating areas. It can also set incentives to bring new services to underserved communities.

Evaluation

We use four primary criteria to evaluate the policy options: Equity, Impact, Cost, and Feasibility. These criteria are rated below on a low-medium-high scale.

Equity - *Will the policy option increase the private vehicle access of low-income people in disadvantaged communities?*

Low	Medium	High
The policy option does not serve disadvantaged communities based on CalEnviroScreen 3.0 index.	The policy option serves disadvantaged communities but has a moderate effect on their private vehicle access.	The policy option serves disadvantaged communities and significantly affects their private vehicle access.

Impact - *Will the policy option increase the rate of carsharing usage?*

Low	Medium	High
The policy option will not induce people to use carsharing.	The policy option will induce people to use carsharing but has a moderate impact at the City level.	Carsharing program has high participation and a significant impact at the City level.

Cost - *Does the policy option have significant financial costs for the City of LA?*

Low	Medium	High
The policy option requires significant, sustained annual costs for additional staff and infrastructure in the long term.	The policy option has some short-term (up to two years) start-up costs for additional staff, vehicles, or infrastructure investment.	The policy option requires little or no additional costs or existing grant funds can cover the cost.

Feasibility - *Is the policy option politically and administratively feasible for the City?*

Low	Medium	High
● The policy option is new to LADOT and needs technical expertise to perform. ● Elected officials or residents are unlikely to support the option.	● The policy option requires some expertise, but it is not difficult to implement. ● Support from Elected officials or residents is possible.	● The policy option does not require technical expertise and LADOT has some experience. ● Elected officials or residents are expected to support the option.

Policy Option: P2P Pilot Program

<u>Equity – High</u>

P2P carsharing vehicles can be made available across all communities and accessible to all populations regardless of ethnicity or income level. Promotional efforts can be targeted to increase awareness of the P2P pilot program among specific segments of the community, such as low-income households. Based on our analysis that considered race, median income, car ownership, and population density, the neighborhood of Hollywood is an ideal location. Hollywood is moderately diverse, has a lower median household income level ($50,000 and lower), moderate to low car ownership (0.75 - 1.50 per household), and high population density.

Impact – High

Hollywood fits the profile of a "high-density low-income" (HDLI) urban area (OpenStreetMap, 2022) similar to neighborhoods that were part of a pilot program conducted in Chicago (Chicagoland Peer-to-Peer Carsharing Pilot Program, 2018). Based on the Chicago example, the pilot program can be expected to draw 22 local car owners, and more than 110 renters to participate in this service (Per 5,000 residents, the participation rate was one car owner and five vehicle renters). Other research shows that, on average, a one-way free floating carshare vehicle can remove anywhere from seven to eleven vehicles from the road (Cohen and Shaheen, 2018).

Based on these figures, it is estimated that the anticipated 22 participating vehicles in the Hollywood pilot program could remove between 154-242 cars from neighborhood streets. Removing hundreds of cars would help alleviate traffic congestion, cut harmful vehicle emissions in the community, and reduce demand for on-street parking in Hollywood.

Cost – Medium

The major costs for the pilot program include expenses for advertising, converting parking spaces for P2P vehicles, and the lost parking meter revenue from the converted parking spaces. Revenue from permit fees for P2P platform companies can offset some of this lost parking meter revenue for the City. Based on the available data, we estimate that a start-up cost of between $63,250 - $113,250 for the P2P pilot program can be expected, but this program should generate annual excess revenue of about $5,700 (Table 8). A pilot program does not require high upfront capital costs for purchasing new vehicles or ongoing fleet maintenance expenses.

Feasibility – High

The City of LA has previously formed a successful partnership with BlueLA. This experience will help with the administrative and technical tasks needed for launching the P2P pilot program. The Hollywood area also has a long track record of strong political support for carsharing. In 2018, the LA City Council voted 13-0 to approve a station-based pilot program in Hollywood operated by ZipCar (Staff, 2018). The success of this program makes it likely that strong support remains for new carsharing initiatives.

Policy Option: Status Quo

Equity – Medium

There are hundreds of carshare vehicles available for rent in LA. By the end of October 2021, BlueLA alone had 2,671 valid memberships. Low-income individuals made up more than 40% of BlueLA's membership base and accounted for almost 46% of all trips taken on the service between August and October of 2021. Clearly, BlueLA has a major impact on equitable access to vehicles, but this impact is limited to relatively narrow geographic areas. Other carshare services operating in LA, such as Zipcar, Getaround, and Turo, are more dispersed throughout the city but the number of available vehicles depends partly on the time of day and the dates selected. While there is good carshare vehicle availability where service exists, availability can vary by neighborhood. Areas like DTLA have many carsharing options, while other places, such as Central LA have few to none. Therefore, the *status quo's* equity is rated medium.

Impact – Medium

BlueLA's entrance into LA's carshare landscape has caused an increase in usage. The ratio of total usage to available vehicles has increased from November 2019 to October 2021, showing that the demand for BlueLA's service is growing. However, there is a lack of carsharing's awareness. As shown earlier in Table 1, 13.7% report that they "do not know much about'' carsharing, and 12.6% say carsharing is "not available" or they "did not know it was available" in their area. In Figure 2, there are high levels of unfamiliarity with various carshare companies among respondents. Because there is an uneven distribution of carshare options across LA, and because there is a lack of awareness of these services, the impact is being rated at the medium level.

Cost – High

Keeping the *status quo* would require no additional costs to the City of LA, therefore, it has a high level of financial feasibility. Currently, BlueLA operates on mostly private funding from the operating company and CARB grant funding.

Feasibility – High

The LA City Council has approved the BlueLA Pilot Program. Keeping the *status quo* should be seen favorably by City officials. There are no significant hurdles associated with maintaining the *status quo*, which makes this option highly feasible.

Policy Option: Expanding BlueLA

Equity – High

Expanding BlueLA further would increase equitable access to private vehicles. At this writing, BlueLA has plans to grow to 300 vehicles in their fleet and have 100 stations throughout LA. BlueLA is already in areas deemed "best" for the program. Further expanding the program into the remaining "best" and "better" areas would improve accessibility to the service.

It is important for programs to promote equitable access for all demographic groups, especially among Black, Hispanic, and low-income communities. Some of the low-income communities with highly concentrated Black and Hispanic populations to consider for future expansion are Arlington Heights (14.4% Black, 62.1% Hispanic, $31,421 median income), Chinatown (15.7% Black, 34.9% Hispanic, $22,754 median income), and Crenshaw (49.6% Black, 38.3% Hispanic, $37,948 median income) (Los Angeles Times, LA Median Income). These three neighborhoods are located near central areas and are diverse in race and income level, making them the ideal neighborhoods for BlueLA to expand in for more vehicle access.

Impact – High

Given BlueLA's high usage rate, expansion into new areas of the City would be expected to have a significant impact on carsharing usage overall. However, with the limited number of areas left to expand into that are classified as "best" according to the Shared Use Mobility Center (SUMC) Expansion Index, the impact of future expansion may be expected to show diminishing returns in terms of usage. Nonetheless, we give expansion efforts for this service a high impact rating.

Cost – Low

Because BlueLA is being funded by two CARB grants, further expansion of the program would require additional funding. The City could fund this expansion, but funds also could come from more grants or other sources. A $3 million CARB grant was awarded to LADOT to expand BlueLA previously, and a similar amount would likely be needed to initiate another expansion. Expanding BlueLA would require additional infrastructure such as creating new stations (designating parking spots and installing charging stations) and purchasing more EVs. Due to the uncertainty of a potential funding source and the approximately $3 million needed to expand, this criterion is rated at the low level.

Feasibility – High

BlueLA's success has warranted expansion in the past, so it is likely that further expansion in the future is highly feasible.

Policy Option: Partnerships

Equity – Medium

Creating new partnerships with other carshare companies beyond BlueLA could lead to more vehicle diversity (different types of vehicles, different neighborhoods targeted, choices in carshare companies). New partnerships would improve access to private vehicles in LA. Creating new partnerships with companies such as Turo, Getaround, or Zipcar would bring more variety of vehicles to LA's carshare landscape such as trucks, sedans, SUVs, HEVs, EVs, ICEVs, etc. Pursuing more partnerships helps to promote more carsharing services, and allows interested users to choose the best-suited service for their needs (membership price, vehicle availability, vehicle types, rental rates, etc.). New partnerships could focus service in neighborhoods that are predominantly disadvantaged, have low private vehicle access, or have little to no access to carsharing. Adding to the carshare landscape in LA in areas that have little to no carshare services operating would help bring access to private vehicles to those areas.

Impact – Medium

New partnerships could be expected to produce similar variability in fleet size, membership numbers, demographics, and usage rates across different services, and depending on which areas of the City the partners concentrate their operations.

Cost – Medium

Depending on the type of partnership pursued, partnerships could have widely varying costs for the City of LA. Partnerships would require a contract to be negotiated between the City and carsharing operators, with potentially varying financial commitments. A partnership similar to BlueLA would likely include significant costs, as highlighted by the $10 million in starting costs from the City's initial negotiated contract. Partnerships could also entail significantly lower costs, as exemplified by the City's arrangement with Mocean to permit select parking spots for carsharing. Because the exact format of future partnerships is uncertain and cost estimates could vary greatly, this option is rated medium.

Feasibility – High

The City has been involved in previous partnerships with carsharing companies such as Zipcar and currently with BlueLA. hese public-private partnerships can have great benefits for both parties such as flexibility, speed, and resources (Shared-Use Mobility Center, 2019). Increasing partnerships between the City and carsharing companies is highly feasible due to the support and success associated with existing partnerships.

Recommendation

The City of Los Angeles should consider pursuing a P2P carsharing pilot program while maintaining its current support for BlueLA. BlueLA has proven its worth as an equitable and effective carsharing option, particularly for disadvantaged communities. Since the status quo scenario already calls for BlueLA expansion, existing plans to invest in the electric carsharing service should be an important part of the City's future transportation plans.

Establishing a new P2P pilot program in Hollywood would greatly enhance carsharing options in the City and improve the mobility of Angelenos as a whole. P2P carsharing provides unique benefits to users and the local community as it gives car owners an opportunity to earn extra money from their vehicles while increasing automobile access for car-less households and bringing environmental benefits. Therefore, P2P carsharing should be given the opportunity to thrive through a pilot program.

The neighborhood of Hollywood is an ideal location for a P2P pilot program for several reasons. Of all the 272 neighborhoods in LA County, as determined by the LA Times Mapping LA project, Hollywood has the seventh highest population density with 22,193 people per square mile. Hollywood's ethnic makeup consists of 42.2% Latino, 41% White, 7.1% Asian, 5.2% Black, and 4.5% other, which is relatively diverse compared to other neighborhoods. The median income level of residents in the Hollywood neighborhood is approximately $44,400 in 2022 dollars (Los Angeles Times, Hollywood). Approximately 18% of Hollywood households do not own a car, meaning that a P2P carsharing program could benefit these households greatly (Household Size by Vehicle Available, 2013).

Hollywood draws significant tourism, which provides more potential customers for carsharing companies operating in the area. As the restrictions and effects of the pandemic continue to abate, tourists and visitors to the area are returning in great numbers. Between April and June of 2021, foot traffic on Hollywood Boulevard increased by 153% and hotel occupancy rates increased greatly (Martin, 2021). Prior to the pandemic in 2018, LA had a record number of

visitors, 50 million, with attractions in the Hollywood area being a major draw for tourists (LA Tourism, 2019).

The Hollywood area boasts many popular destinations that could attract carsharing users, including the Hollywood Bowl, the Hollywood Walk of Fame, TCL Chinese Theater, and the Pantages Theater. Walkscore.com classified Central Hollywood as one of the most walkable neighborhoods in LA, with a walk score of 95. It also has a good public transit score of 66 and is great for biking with a score of 73 (Central Hollywood neighborhood in Los Angeles, Walkscore). Carshare users are more likely to walk, bike, and use public transportation than non-carshare users, which is good for the community as a whole.

For a P2P pilot program to be successful in Hollywood, parking spaces exclusively designated for participating vehicles are critical. In order to implement the designated parking spaces, the pilot program should take into account two key features: where to provide the spaces and how to design them. First, since the pilot program intends to make P2P carsharing more popular and convenient, parking spaces should be in high-traffic areas. Accordingly, using spaces close to Metro stations or popular destinations is preferable. There are sufficient metered parking spaces near most Metro stations that would make ideal locations for P2P parking.

Second, these spaces should be designed so they are immediately recognizable. The spaces should have clear signs and lines with eye-catching colors. Additionally, participating P2P vehicles should have clear insignia, stickers, or permits to identify that they comply with City parking codes. An interview with Mocean representatives revealed that the company had difficulties with erroneous parking tickets because their cars were not recognized by City parking enforcement. The P2P pilot program should build on this experience by working with parking enforcement authorities to increase awareness by their officers of the new parking status for these vehicles.

If the City can successfully promote one or more P2P carsharing services in strategic neighborhoods, such a pilot program would have a high policy impact in increasing the rate of carsharing. Increased P2P carsharing would provide substantial benefits for a relatively low cost to the City. Unlike the high costs associated with maintaining a sizable fleet of shared vehicles in station-based or free floating carshare models, P2P carsharing utilizes existing assets in the form of privately owned vehicles. This feature eliminates the need to purchase or maintain new fleet vehicles.

A pilot program that has designated parking spaces at desirable locations would also increase the program's impact and promote equitable vehicle access. Environmental and traffic

congestion benefits would also materialize. We estimate that a P2P pilot program in Hollywood could draw in 22 local car owners to offer their vehicles for the service, and ultimately remove between 154-242 cars from neighborhood streets.

Because carsharing encourages people to delay or abandon private vehicle purchases, users have been shown to replace private car trips with more carsharing rides, bus trips, walking, or biking. Removing hundreds of cars would help alleviate traffic congestion, cut harmful vehicle emissions in the community, and reduce demand for on-street parking in Hollywood. The P2P pilot program option would focus heavily on the promotion of P2P carsharing to increase the number of users and the number of available vehicles. The widespread benefits of P2P make a pilot program option highly feasible, as it should appeal to many constituents including car owners and non-car owners.

To maximize the impact of P2P carsharing and further enhance equity, the City can explore incentives for more EV owners to make their cars available on P2P carsharing platforms. This would bring greater environmental benefits, and closely align with the City and state's goals of transitioning to zero emission vehicles over the next decade and beyond. Another way to enhance the pilot program in the future would be to consider including reserved spaces for P2P providers in LADOT's mobility hubs, which are currently being planned throughout the City as central locations for multimodal transportation options. The clear benefits of expanding and promoting P2P carsharing through a pilot program, coupled with the future potential to better integrate the transportation mode into the City's infrastructure, makes pursuing a P2P pilot program an ideal way to increase equitable access to vehicles while achieving a myriad of other social, economic, and environmental benefits.

One advantage of a pilot program is that it would provide verification of, or refinement of, the estimates we provided in this chapter. We had to rely on the limited literature available on carsharing and on Mocean data, although Mocean was not a P2P company. A pilot program would generate new information of benefit to other cities in California as well as Los Angeles.

REFERENCES

About Getaround®. (n.d.). Retrieved March 11, 2022, from https://www.getaround.com/about

About Envoy. Envoy. (n.d.). Retrieved March 11, 2022, from https://www.envoythere.com/about-us

About the Turo car sharing marketplace | Turo. (n.d.). Retrieved March 11, 2022, from https://turo.com/us/en/about

Blumenberg, E., & Ong, P. (2001). Cars, buses, and Jobs: Welfare participants and Employment Access in Los Angeles. Transportation Research Record: Journal of the Transportation Research Board, 1756(1), 22–31. https://doi.org/10.3141/1756-03

BuroHappold Engineering. (2019, August 25). Commute Mode Share in LA County (2005-2017). Los Angeles. Retrieved April 13, 2022, from https://data.lacounty.gov/Transportation/Commute-Mode-Share-in-LA-County-2005-2017-/y7mn-ys78.

Car Access: National Equity Atlas. Car Access | National Equity Atlas. (n.d.). Retrieved January 28, 2022, from https://nationalequityatlas.org/indicators/Car_access#/

Carlier, M. (2021, October 19). U.S. car owners by Income Group 2021. Statista. Retrieved April 13, 2022, from https://www.statista.com/statistics/1041177/us-car-owners-by-income-group/

California Office of Environmental Health Hazard Assessment. (2017, June). SB 535 Disadvantaged Communities. Retrieved April 11, 2022, from https://oehha.ca.gov/calenviroscreen/sb535.

Central Hollywood neighborhood in Los Angeles. Walk Score. (n.d.). Retrieved April 10, 2022, from https://www.walkscore.com/CA/Los_Angeles/Central_Hollywood

Cohen, A., & Shaheen, S. (2018, March 1). Planning for Shared Mobility . Retrieved January 28, 2022, from https://escholarship.org/content/qt0dk3h89p/qt0dk3h89p.pdf

City of Los Angeles, City Council. (2005, September 23). Council File: 05-2017: Car Share Pilot Program. Los Angeles City Clerk. https://cityclerk.lacity.org/lacityclerkconnect/index.cfm?fa=ccfi.viewrecord&cfnumber=05-2017

City of Los Angeles, City Council. (2008, August 11). Council File: 08-1798: carsharing Pilot Program: The Status of the Proposed carsharing Pilot Program in Los Angeles. Los Angeles City Clerk. https://clkrep.lacity.org/onlinedocs/2008/08-1798_ca_08-05-08.pdf

City of Los Angeles, City Council. (2010, September 1). Council File: 08-1798: carsharing Pilot Program: Year End Status Report on the On-Street Carshare Pilot Program. Los Angeles City Clerk. https://clkrep.lacity.org/onlinedocs/2008/08-1798_rpt_dot_9-1-10.pdf

City of Los Angeles, City Council. (2017, October 3). Council File: 17-1126:Peer-to-Peer carsharing. Los Angeles City Clerk. https://clkrep.lacity.org/onlinedocs/2017/17-1126_mot_10-03-2017.pdf

City of Los Angeles, City Council. (2017, May 19). Council File: 13-0192: Point-to-Point Carsharing System/ Regulations: Status Update on the Formulation of a Multiple-Provider Carshare Fixed-Space and Point-to-Point. Los Angeles City Clerk. https://clkrep.lacity.org/onlinedocs/2013/13-0192_rpt_DOT_05-19-2017.pdf

City of Los Angeles, City Council. (2013, February 12). Council File: 13-0192: Point-to-Point Carsharing System/ Regulations. https://clkrep.lacity.org/onlinedocs/2013/13-0192_MOT_02-12-13.pdf

City of Los Angeles, City Council, Transportation Committee. (2016, December 12). Council File: 15-1227: California Air Resources Board (CARB) Fiscal Year 2014 -15/ L.A. City Carsharing Pilot Project/ Grant: Transportation Committee Report. Los Angeles City Clerk. https://clkrep.lacity.org/onlinedocs/2015/15-1227_rpt_tran_12-12-16.pdf

City of Los Angeles, City Council, Transportation Committee. (2021, August 3). Council File: 19-0131-S1: BlueLA Electric Vehicle Carshare Program/ Disadvantage Communities/ California Air Resources Board (CARB)/ BlueLA LLC/ Mobility Development Partners/ Contract/ Amendment: Transportation Committee Report. Los Angeles City Clerk. https://clkrep.lacity.org/onlinedocs/2019/19-0131-S1_rpt_tran_8-3-21.pdf

City of Los Angeles Neighborhoods Population & Race. (2020). Los Angeles. Retrieved April 11, 2022, from http://www.laalmanac.com/population/po24la.php.

Commute mode share in LA County (2005-2017): LAC open data. data.lacounty.gov. (n.d.). Retrieved January 28, 2022, from https://data.lacounty.gov/Transportation/Commute-Mode-Share-in-LA-County-2005-2017-/y7mn-ys78

Current California GHG Emission Inventory Data. (n.d.). Retrieved January 28, 2022, from https://ww2.arb.ca.gov/ghg-inventory-data

Dillet, R. (2019, October 2). Drivy rebrands to Getaround six months after acquisition. TechCrunch. Retrieved March 11, 2022, from https://techcrunch.com/2019/10/01/drivy-rebrands-to-getaround-six-months-after-acquisition/

DriveBoston Licenses To Occupy Dedicated Spaces In Right Of Way And In Municipal Lots For Car Share Vehicles. Getaround-Boston Transportation Department. Retrieved October 23, 2019, from https://www.boston.gov/sites/default/files/file/2019/12/2019%20Car%20Share%20Boston%20Executed%20Contract%20Getaround.pdf.

Essential destinations. UCLA Lewis Center for Regional Policy Studies. (2021, January 27). Retrieved January 28, 2022, from https://www.lewis.ucla.edu/programs/access-opportunities/essential-destinations/

Envoy series a press release. Envoy. (n.d.). Retrieved March 11, 2022, from https://www.envoythere.com/envoy-series-a-funding-annoucement

Envoy Electric Mobility For Every Life Style. (n.d.). Retrieved April 8, 2022, from https://www.envoythere.com/amenity-pricing

Getaround. (n.d.). Retrieved April 11, 2022, from https://www.getaround.com/search?start_time=2022-04-20T21%3A15%3A00.000Z&end_time=2022-04-20T22%3A15%3A00.000Z&viewport=33.98607304721723%2C-118.40298675781249%2C34.13084856985043%2C-118.20523285156249&zoom=12&use=CARSHARE

Global, E. Y. (2020, November 12). Millennials to lead covid-induced car ownership boom – EY survey. EY. Retrieved April 11, 2022, from https://www.ey.com/en_gl/news/2020/11/millennials-to-lead-covid-induced-car-ownership-boom-ey-survey

H., A. (2019, October 25). Why fleet-based carsharing is doomed. LinkedIn. Retrieved January 28, 2022, from https://www.linkedin.com/pulse/why-fleet-based-car-sharing-doomed-andre-haddad

Household Size by Vehicle Available. (2013). Los Angeles. Retrieved April 14, 2022, from https://data.census.gov/cedsci/table?q=household%20size%20by%20vehicles%20available&tid=ACSDT1Y2013.C08201.

Hymon, S. (2019, February 7). Metro partners with Getaround to offer car sharing at 27 transit stations. The Source. Retrieved April 11, 2022, from https://thesource.metro.net/2019/02/07/metro-partners-with-getaround-to-offer-car-sharing-at-27-transit-stations/

“Impacts of Car2go on Vehicle Ownership, Modal Shift, Vehicle Miles Traveled, and Greenhouse Gas Emissions: An Analysis of Five North American Cities”, Martin and Shaheen (2016), http://innovativemobility.org/wp-content/uploads/2016/07/Impactsofcar2go_FiveCities_2016.pdf

Important update: Share now USA. Share Now. (n.d.). Retrieved January 28, 2022, from https://www.share-now.com/de/en/important-update/

Introducing MoceanLab. Mocean Lab | A new laboratory for sustainable mobility solutions in Los Angeles, powered by the Hyundai Motor Company. (n.d.). Retrieved January 28, 2022, from https://www.moceanlab.com/

Kodransky, M., & Lewenstein, G. (2014, December). Connecting low-income people to opportunity with shared ... Living Cities. Retrieved April 13, 2022, from https://livingcities.org/wp-content/uploads/2021/03/Can-Shared-Mobility-Help-Low-Income-People-Access-Opportunity_.pdf

LA Tourism. (2019, March 14). Los Angeles celebrates record milestone of 50 million visitors in 2018. Discover Los Angeles. Retrieved April 10, 2022, from https://www.discoverlosangeles.com/los-angeles-celebrates-record-milestone-of-50-million-visitors-in-2018

Lai, J. (2020, March 5). Los Angeles keeps the crown. Turo. Retrieved April 11, 2022, from https://turo.com/blog/community/2020-turo-market-guide-los-angeles

Lank, B., Lank, B., & Sanchez, P. by J. (2020, January 21). Car-rental apps blamed for parking problems on Echo Park and Silver Lake Streets. The Eastsider LA. Retrieved March 11, 2022, from https://www.theeastsiderla.com/neighborhoods/echo_park/car-rental-apps-blamed-for-parking-problems-on-echo-park-and-silver-lake-streets/article_582b86de-399c-11ea-b418-abbfd73120b6.html

Los Angeles, CA Electric Car Sharing Service. Blink Mobility. (2022, February 14). Retrieved March 11, 2022, from https://blinkmobility.com/

Los Angeles County Supervisor, Sheila Kuehl. (2019, February 7). Metro Partners with Getaround. Retrieved February 10, 2022, from https://supervisorkuehl.com/metro-partners-with-getaround/.

Los Angeles Times. (n.d.). Hollywood. Los Angeles Times. Retrieved April 11, 2022, from https://maps.latimes.com/neighborhoods/neighborhood/hollywood/index.html

Los Angeles Times. (n.d.). LA Median Income. Los Angeles Times. Retrieved April 11, 2022, from https://maps.latimes.com/neighborhoods/income/median/neighborhood/list/

Manville, M., Taylor, B. D., & Blumenberg, E. (2021, July 9). Falling transit ridership: California and Southern California. eScholarship, University of California. Retrieved January 28, 2022, from https://escholarship.org/uc/item/0455c754

Martin, H. (2021, August 16). Hollywood Boulevard is starting to bounce back. thank American tourists. Los Angeles Times. Retrieved April 11, 2022, from

https://www.latimes.com/business/story/2021-08-16/covid19-coronavirus-hollywood-boulevard-recovery-american-tourists

McKinney, M. (2021, April 15). Westside expansion of L.A.'s first free-floating car-share service delivers app-based mobility solution at nearly same cost as renting a scooter. Business Wire. Retrieved April 13, 2022, from https://www.businesswire.com/news/home/20210415005990/en/Westside-Expansion-of-L.A.%E2%80%99s-First-Free-Floating-Car-Share-Service-Delivers-App-Based-Mobility-Solution-at-Nearly-Same-Cost-as-Renting-a-Scooter

Metro Vancouver. (2014, November). The Metro Vancouver Car Share Study Technical Report. Retrieved March 13, 2022, from https://learn.sharedusemobilitycenter.org/wp-content/uploads/policy-documents-2/Canada_Vancouver_MetroVancouverCarShareStudyTechnicalRepo

The City of Los Angeles. (n.d.). Municipal code. American Legal Publishing Corporation. Retrieved April 11, 2022, from https://codelibrary.amlegal.com/codes/los_angeles/latest/lamc/

Namazu, M., & Dowlatabadi, H. (2015). Characterizing the GHG emission impacts of carsharing: a case of Vancouver. Environmental Research Letters, 10(12), 124017.

On-Street carsharing Pilot Program - SFMTA. (2017, January). Retrieved January 28, 2022, from https://www.sfmta.com/sites/default/files/projects/2017/Carshare_eval_final.pdf

OpenStreetMap. (2022). Hollywood. OpenStreetMap. map, Los Angeles, California.

Plautz, J. (2021, August 9). The pandemic changed car ownership. how can cities adapt? Smart Cities Dive. Retrieved January 28, 2022, from https://www.smartcitiesdive.com/news/the-pandemic-changed-car-ownership-how-can-cities-adapt/604497/

Poverty and Lower Living Income Level Guidelines. (2021). Poverty Guidelines for Los Angeles County, California. (n.d.). Retrieved April 11, 2022, from http://www.laalmanac.com/social/so24.php

Schwieterman, Joseph P. and Pelon, Mollie (2017) "First Zipcar, Now Uber: Legal and Policy Issues Facing the Expanding “Shared Mobility” Sector in U.S. Cities," Belmont Law Review: Vol. 4 , Article 5.

Ranking the top-earning cars on Turo | Turo Carculator. (n.d.). Retrieved March 11, 2022, from https://turo.com/us/en/top-earning-cars

Rodier, C., Randall, C., Garcia Sanchez, J.C., Harrison, M., Francisco, J., & Tovar, A. (2022, February) White Paper: Challenges and Opportunities for Publicly Funded Electric

Vehicle Carsharing. University of California, Davis Institute of Transportation Studies. Retrieved April 13, 2022, from https://escholarship.org/uc/item/5nf0m5mc

Shaheen, S., Martin, E., & Bansal, A. (2018, March 22). Peer-to-peer (P2P) carsharing: Understanding early markets, social dynamics, and behavioral impacts. eScholarship, University of California. Retrieved January 28, 2022, from https://escholarship.org/uc/item/7s8207tb

Shared Mobility Action Plan for Los Angeles County. MOD Learning Center. (2018, October 16). Retrieved January 28, 2022, from https://learn.sharedusemobilitycenter.org/publication/6490/

Shared-Use Mobility Center. (2018, December). Chicagoland Peer-to-Peer Carsharing Pilot Program. Retrieved April 11, 2022, from https://learn.sharedusemobilitycenter.org/wp-content/uploads/FHWA-P2P-Report_12.11.pdf

Shared-Use Mobility Center. (2019, April). Electric and Equitable: Learning from the BlueLA Carshare Pilot. Retrieved February 24, 2022, from https://learn.sharedusemobilitycenter.org/wp-content/uploads/NewFile_SUMC_04.15.19.pdf

Shared-Use and Mobility Center. (n.d.) LA Metro and Zipcar Partnership, Los Angeles County, California, 2015. February 20, 2022, from https://learn.sharedusemobilitycenter.org/overview/la-metro-and-zipcar-partnership-los-angeles-county-california-2015/.

Stacy, C., Su, Y., Noble, E., Stern, A., Blagg, K., Rainer, M., & Ezike, R. (2020, October). Access to opportunity through Equitable Transportation. Urban Institute. Retrieved April 13, 2022, from https://www.urban.org/sites/default/files/publication/102992/access-to-opportunity-through-equitable-transportation_0.pdf

Staff, A. R. N. (2018, February 15). Hollywood testing City-backed carsharing pilot. Legal & Legislative - Auto Rental News. Retrieved April 11, 2022, from https://www.autorentalnews.com/278788/hollywood-testing-city-backed-carsharing-pilot

Tang, A. (2015). Clean Mobility Options Legacy Pilot Project. California Air Resource Board. Retrieved April 13, 2022, from https://ww2.arb.ca.gov/lcti-bluela-carsharing-pilot-project

The City of Los Angeles. (2021, June 29). 19-0131-S1_rpt_DOT_7-29-21.pdf. LA City Clerk Connect. Retrieved February 25, 2022, from https://clkrep.lacity.org/onlinedocs/2019/19-0131-S1_rpt_DOT_7-29-21.pdf

The City of Los Angeles. (2020, April). City of Los Angeles FY 2020-21 Proposed Budget. Retrieved March 31, 2022 fromhttps://cao.lacity.org/budget20-21/2020-21Proposed_Budget.pdf

The High Cost of Transportation in the United States. Institute for Transportation and Development Policy. (2019, May 23). Retrieved April 13, 2022, from https://www.itdp.org/2019/05/23/high-cost-transportation-united-states/

Turo Search. Turo. (2022). Retrieved April 11, 2022, from https://turo.com/us/en/search?country=US&defaultZoomLevel=11&delivery=false&deliveryLocationType=googlePlace&endDate=04%2F20%2F2022&endTime=21%3A00&isMapSearch=false&itemsPerPage=200&latitude=34.0522342&location=Los%20Angeles%2C%20CA%2C%20USA&locationType=CITY&longitude=-118.2436849&placeId=ChIJE9on3F3HwoAR9AhGJW_fL-I®ion=CA&sortType=RELEVANCE&startDate=04%2F20%2F2022&startTime=10%3A00&useDefaultMaximumDistance=true

VanCity. (2018, January). Changing Gears: Exploring the car-sharing culture shift in Metro Vancouver. Retrieved January 4, 2022 from http://danskedelebiler.dk/wp-content/uploads/2018/04/Vancouver-unders%C3%B8gelse.pdf

Wachs, M., & Taylor, B. D. (2020, July 28). Improving transit equity in L.A.. during the pandemic. Streetsblog Los Angeles. Retrieved April 13, 2022, from https://la.streetsblog.org/2020/07/28/improving-transit-equity-in-l-a-during-the-pandemic/

Zipcar. (2022). Zipcar in Los Angeles. Zipcar. map, Los Angeles, California.

Chapter 7

Improving Transit Access for Low-Income Angelenos Through the LIFE Program

Devin Mitchell, Kirim Lee, Shogo Yago, Yuki Abe

The authors originally developed this chapter as an Applied Policy Project of the UCLA Luskin School of Public Affairs Master of Public Policy program. The original report is available from the authors. Information in this chapter is current through spring 2022 and does not reflect subsequent developments.

In 2007, as part of the agency's efforts to make public transit more accessible, the Los Angeles Metropolitan Transportation Authority (LA Metro or Metro) initiated the Low-Income Fare is Easy (LIFE) program. The agency, which runs buses and trains throughout Los Angeles County, gave the program a $5 million budget with the mission statement to "provide transportation assistance to the most economically vulnerable and transit dependent in Los Angeles County." LIFE started by providing fare subsidy coupons throughout Los Angeles County via nonprofit and government agencies.

LIFE's budget has since tripled to $15.6 million, and Metro now provides coupons through reloadable fare cards, TAP cards, which make it easier for riders to take advantage of the LIFE discounts. As part of the expanded discount pilot program that the agency pursued from December 2021 to July 2022, regular weekly and monthly passes were discounted by 50 percent. Metro is also currently implementing a fare-free pilot program for K-12 and community college students of all incomes, distributing unlimited TAP cards to public school students between October 2021 and June 2023. This chapter explores the impact of these efforts by Metro to increase transit access to low-income residents of LA County.

Background

The LIFE program had its genesis in August 2020, when then-CEO of the Los Angeles Metropolitan Transportation Authority Phil Washington formed an internal task force to plan and implement a program piloting fare-free transit plan for the system. According to a presentation to the Board of Directors at the time, Washington believed "*that Metro has a moral obligation to explore how a fareless system can aid those that have been hit hardest by the pandemic*." In launching the Fareless System Initiative task force, Washington said it had the potential to "*change the social and economic fabric of our region and like firefighting and police services would be fully paid out of the public purse as a social and public right and common good*."

At its May 2021 meeting, the Metro Board unanimously affirmed its support for developing a version of the fareless pilot program but "*decided it still need[ed] a strong financial plan before greenlighting [the proposal] and committing to any deadlines or start dates*" (Vega). The $321 million estimated cost of the 23-month pilot program reportedly concerned many on the Board, and "*as a result, Metro staff [would] continue to explore funding scenarios, including state and federal grants and contributions from schools, sponsors and/or stakeholders*" (Hymon May 27, 2021).

Ultimately, the Metro Board voted in September 2021 to move forward with a paired-back plan. The proposal implemented free fares for K-12 and community college students and "improvements" to the pre-existing low-income rider discount program, making registration easier, allowing for automatic renewal, extending eligibility from one to two years, and offering

"*expanded options for a set number of free rides, in addition to discounted single-ride fares and weekly/monthly passes*" (Linton, Sept. 20, 2021).

To increase the LIFE enrollment, on November 18, 2021, Metro initiated the LIFE Program Strategic Double Enrollment plan (Enrollment Plan), which aims to double the current total enrollees: from 91,086 to 183,478 by the end of 2022. Metro defined its core strategies as follows:

- **Identify**: Identify qualifying program participants
- **Inform**: Let low-income riders know the enrollment program through outreach
- **Enroll**: Provide a "Seamless and streamlined" process to encourage enrollment

In January 2022, Metro reported to the executive management committee that as a result of actions including a simplified enrollment procedure, the launch of an online application portal, and direct enrollment pop-up activities, it achieved an increase of 8,197 in total enrollees from September 2021, which represented 9% of the way towards its goal. If it maintained that pace over the course of 2022, it would approach the Double Enrollment plan's goal.

Policy Context

Farebox Recovery: Compared to other big city transit systems, Metro has a relatively low farebox "recovery ratio," the fraction of system operating expenses which are covered by passenger fares. Other sources of funding for transit come from federal, state, county, and city tax revenue, as well as from bond sales. For comparison, farebox recovery ratios for various large systems in 2020 are shown on Table 1 (FTA).

Table 1. Farebox recovery ratios and operation expenses in metropolitan areas

Metropolitan Area	Farebox Recovery Ratio (2020)	Operating Expenses (2020)
New York	25.6%	$9.04 billion
Los Angeles	***11.7%***	***$2.12 billion***
Washington, D.C.	27.6%	$2.15 billion
Boston	40.0%	$1.86 billion
Chicago	17.8%	$1.54 billion
San Francisco/Oakland	48.3%	$0.85 billion

A relatively lower farebox recovery ratio theoretically makes a fareless system more feasible to implement, as it means that policymakers must replace less revenue than was previously

generated by fares. Note also that the farebox recovery ratio in Los Angeles has declined in recent years, from 29% in 2011 and 26.2% in 2014, though the pandemic is a complicating factor in comparing 2020 to previous years (Investing in Place; Rubin & Moore).

Declining Ridership Before the Pandemic*:* Even before the pandemic, bus and rail ridership had declined in Los Angeles and across the country during the 2010s. According to a report from the UCLA Institute for Transportation Studies, California lost 11 percent of its annual boardings between 2014 and 2018, and that figure was almost 18 percent in L.A. County. A 2022 *Transportation Research* paper examining the decline attributed it not to any one factor but a combination of "the declining cost of driving measured by the decreasing share of carless households combined with lower gasoline prices." Gentrification in high-density neighborhoods was cited as a contributing factor to this trend (Taylor et al; Lee & Lee).

COVID-19 Pandemic*:* The COVID-19 pandemic has had a profound effect on public transit across the U.S., including in L.A. County. As of late 2020, ridership was at 30 percent of pre-pandemic levels on the subways of New York City, by far the most transit-dependent metropolitan area in the country. In L.A. County, average weekly bus and train ridership declined to around 30 percent of pre-pandemic levels during initial stay-at-home orders before rebounding to around 50 percent by February 2021. In San Francisco and Washington, D.C. the decline was even more dramatic; ridership was closer to 15 percent of pre-pandemic levels (Goldberg).

Because financing of transit systems is dependent in part on fares from riders, this decline was a troubling development for the future of transit, even though the initial steep drop in ridership was due to public health directives.

> "*Public transportation systems are confronting an extraordinary financial crisis set off by the pandemic, which has starved transit agencies of huge amounts of revenue and threatens to cripple service for years. The profound cuts agencies are contemplating could hobble the recoveries of major cities from New York to Los Angeles and San Francisco, where reliable transit is a lifeblood of the local economies*." (Goldbaum and Wright)

The negative implications of the dire financial predicament for low-income and minority riders who rode buses and trains at disproportionately high rates was also discussed. San Francisco MTA Director Jeffrey Tumlin warned of the possibility of a "death spiral" of service cuts and ridership declines (Goldbaum & Wright; Verma).

Federal Funds Save Agencies: In March 2021, President Joe Biden signed the American Rescue Plan (ARP) into law. The legislation appropriated $30.5 billion in federal funding to support public transportation systems, to be distributed by the Federal Transit Administration, a division of the U.S. Department of Transportation. Metro alone was awarded $1.24 billion of those funds in January 2022. The massive outlay in federal funding from Congress alleviated the

immediate funding crisis facing local transit agencies. It also indirectly made it possible for Metro to pursue a temporary fareless pilot program. However, ARP was a one-time expenditure and the medium- and long-term outlook for transit in the U.S. remains uncertain and dependent on levels of future ridership (*The Source*, Jan. 12, 2022; George).

Recent Fareless Transit Policy Experiments: Metro is not alone in exploring the possibility of a fareless transit future. In December 2019, the Kansas City Council voted to begin offering free bus service beginning in 2020, at a cost of between $8 and $9 million to the city annually to replace lost revenue from fares. For context, the city previously had appropriated $60 million annually to administer the bus system, with fares covering remaining costs. The mayor, Quinton Lucas, said the initiative sought to benefit the city's "working poor" (Mosley & McMahon). The population of Kansas City was 508,090 and before the pandemic there were 43,600 passengers on a weekday, both figures considerably less than in Los Angeles.

According to *Vox*, "in recent years, lawmakers in cities such as Salt Lake City and Denver have [also] expressed support for a zero-fee bus system," and "transit advocates, activists, and residents from places like Portland, Seattle, and Nashville are asking: Can other cities work to subsidize their bus systems?" (Nguyen).

Meanwhile at the federal level, in June 2020 and then again in March 2021, Senator Ed Markey and Representative Ayanna Pressley (both D-Massachusetts) introduced the Freedom to Move Act in Congress. The proposed legislation would have provided federal funds "*to support state and local efforts to promote public transportation as a public good and provide fare-free public transit systems*," according to a press release. The headline proposal of the bill was a $5 billion competitive grant program to which local agencies could have applied to offset lost fare revenues. (U.S. House).

Policy Questions

We sought to answer the following questions in our research and analysis:

- *How can Metro improve transit access for low-income Angelenos through the LIFE program?*
- *How can Metro identify underserved communities?*
- *How has the LIFE program helped people?*
- *How effective were Metro's efforts to encourage LIFE enrollment?*
- *How can Metro increase the number of LIFE enrollees?*

We used the Geographic Information System (GIS) method to examine how Metro's buses and light rail have played a role in improving equity in L.A. County. In this context, equity refers to the extent to which people in L.A. County have equal access to transportation. Our analysis is important because before we could discuss the need to expand Metro's program, it is necessary to make sure that Metro's routes cover most high-need areas. We also conducted a GIS analysis

to visualize not only the eligible population for the LIFE program, but also the LIFE enrollment data to see where the LIFE program is most heavily used and where Metro should reach out to increase enrollment.

A second method that we used was a quantitative analysis, in which we predicted the number of LIFE enrollees per area and identified the areas with great differences between the predicted enrollment and actual enrollment. Quantitative analysis was also useful in examining the effects of the outreach events that Metro has held so far on the enrollment in the LIFE program. Still a third method we used was an interview survey in order to identify the reasons why eligible people do not enroll in the LIFE program.

GIS Analysis

Our GIS analysis sought to answer these questions:

- Which areas have many eligible residents who have not yet participated in LIFE?
- Which areas have smaller LIFE enrollment despite the larger eligible population?
- Are Metro's outreach events well designed to reach those areas?
- How does transportation access vary by region?
- Are Metro's outreach events designed to take these equity factors into consideration?

Quantitative Analysis

Since GIS analysis has the weakness of only allowing visual and subjective examination, we conducted a quantitative analysis to complement the results of our GIS research.

In order to assess how areas with a large number of LIFE program enrollees overlap with areas with high public transportation needs quantitatively, we examined the correlation between these figures. This correlation analysis was then used to help us predict the number of LIFE enrollments per ZIP code and to identify outliers, that is, areas with large differences between predicted and actual registrations.

Next, by incorporating these values of differences and the percentage of workers not having a car per ZIP code into a map, we were able to determine which areas Metro should focus on not only to increase the number of LIFE enrollees, but also to improve transportation equity. However, it is also possible that the reason for the low LIFE enrollment in these areas may be that they are underserved by Metro. Thus, we utilized geographic information of bus stops again. By using the intersect function in ArcGIS (a mapping software program), we were able to count the number of bus stops in each ZIP code area and rate them based on the number of bus stops per square mile. The resulting map will help to distinguish between areas where

Metro should conduct outreach efforts and areas where more bus stops should be added to increase LIFE enrollment.

Another quantitative analysis was to assess the impact of outreach events on increases in enrollment. Because the increased enrollment is attributable to various factors, it would be difficult to find a causal relationship between the outreach events and the increase in enrollment. In this situation, a difference-in-differences (DD) analysis can be useful to eliminate as much bias as possible. DD analysis compares not only enrollment growth for outreach and non-outreach areas, but also the changes before and after the events in these areas. This method allows us to estimate the differential effect of the event.

In addition to asking Metro to provide detailed information on each outreach event, we also requested tabulations of the weekly increase in LIFE enrollment by ZIP code, as time-series data are needed for the DD analysis. As can be seen in Table 2, Metro conducted 20 outreach events in 12 locations during November and December 2021.

Table 2: List of Metro outreach events

Zip code	Location	Address	Date
90002	Grant AME Church	10435 S. Cental Ave., Los Angeles, CA 90002	11/12/21
90005	Wilshire/Western Outreach Event	3775 Wilshire Blvd, Los Angeles, CA 90005	12/8/21
90012	Union Station Outreach Event	One Gateway Plaza, LA, CA 90012	11/17/21
90018	FAME's Office	1968 W. Adams Blvd., Los Angeles, CA 90018	11/15/21
90027	La Linterna Program	4650 Sunset Blvd, Los Angeles, CA 90027	11/5/21
90027	La Linterna Program	4650 Sunset Blvd, Los Angeles, CA 90027	11/19/21
90027	La Linterna Program	4650 Sunset Blvd, Los Angeles, CA 90027	12/3/21
90027	La Linterna Program	4650 Sunset Blvd, Los Angeles, CA 90027	12/16/21
90031	IILa's Office	3845 Selig Place, Los Angeles, CA 90031	11/12/21
90031	IILa's Office	3845 Selig Place, Los Angeles, CA 90031	12/3/21
90033	LAC+USC drive-through food distribution event	1200 N State Street, Los Angeles, CA 90033	11/12/21
90033	LAC+USC walk-up food distribution event	1200 N State Street, Los Angeles, CA 90033	11/17/21
90033	LAC+USC walk-up food distribution event	1200 N State Street, Los Angeles, CA 90033	12/15/21
90059	Community Fair and Celebration at Willowbrook/Rosa Parks Station	11611 Willowbrook Ave, Los Angeles, CA 90059	11/19/21
90650	Norwalk Outreach Event	12901 Hoxie Ave, Norwalk, CA 90650	12/1/21
90802	Long Beach TBD Outreach Event	130 E. First Street, Long Beach, CA 90802	12/16/21
91601	North Hollywood Outreach Event	5391 Lankershim Blvd, North Hollywood, CA 91601	12/2/21
91768	Pomona Station	100 W Commercial St, Pomona, CA 91768	12/6/21
91768	Pomona Outreach Event	100 W Commercial St, Pomona, CA 91768	12/9/21
91768	Pomona Station	100 W Commercial St, Pomona, CA 91768	12/20/21

Survey

The existing data such as Metro's Customer Satisfaction Surveys do not focus on the LIFE program and therefore it is difficult to analyze what people want from the LIFE program. To address this issue, we conducted a survey on riders who were eligible for the LIFE program. The survey was designed to answer why did or did not enroll in the LIFE program. The first section of the survey reported basic information of responders including demographics, travel

behavior, and awareness of the program. In the second section, those who responded that they had enrolled in LIFE were asked about their satisfaction with, and opinion about, the program. The third section consisted of questions for those who were eligible for, but did not enroll in, the LIFE program.

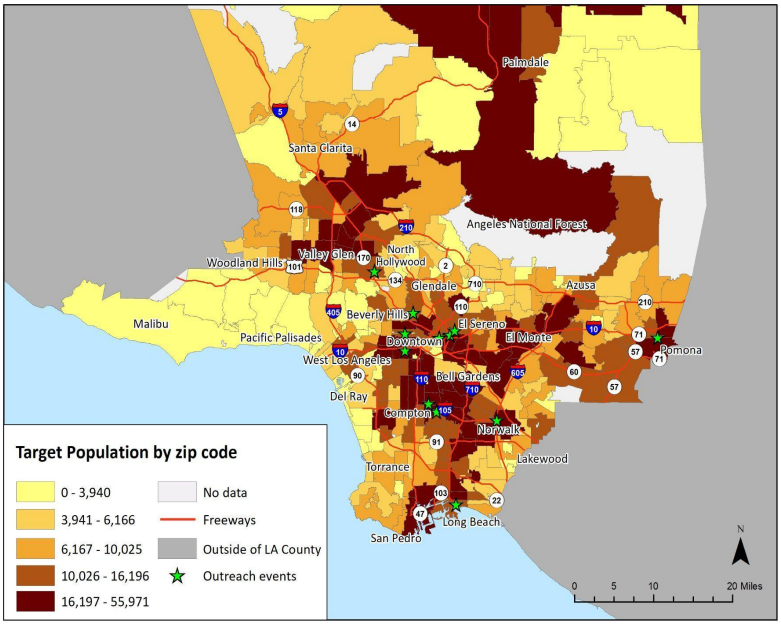
To encourage participation, the questions were designed to be answered online within around five minutes. The survey was available in both English and Spanish. Participants who completed the survey were rewarded with a $5 Target gift card. The survey was conducted between March 1 and March 31, 2022. Based on our GIS analysis, flyers were put at bus stops at Union Station, in Koreatown, in Westlake, at Expo/Vermont, and at Wilshire/Westwood stations.

Findings from GIS Analysis

Before looking at current LIFE enrollment, we analyzed the eligible population in L.A. County. To expand the LIFE program, we needed to know exactly who is eligible for LIFE, how many people in each area are eligible, and what percentage of them are currently enrolled in LIFE. People whose income is below a certain threshold are eligible for LIFE, but this income threshold varies by household size.

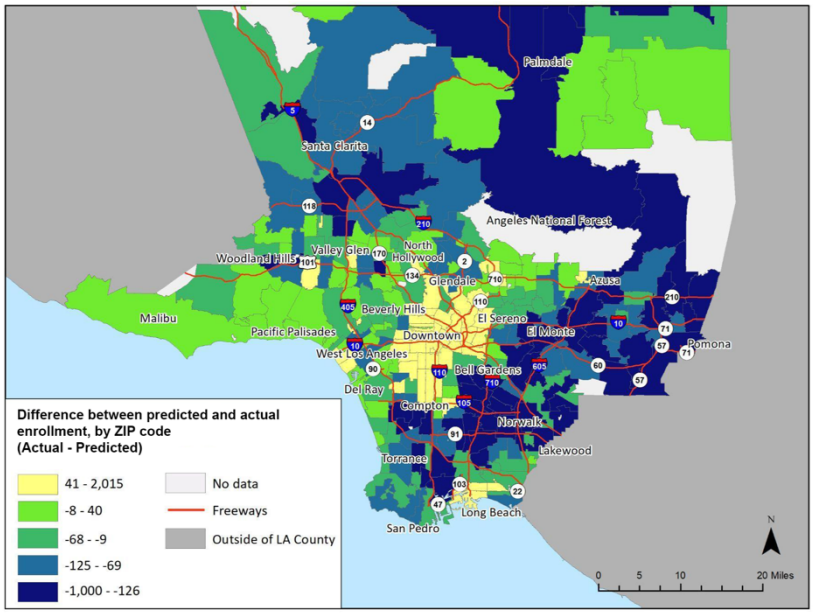
We plotted the population of who is eligible but not yet enrolled in LIFE, which we call the target population. Map 1 helps us to find the prospective areas that Metro needs to focus on to increase the LIFE enrollment.

Map 1



We found that Downtown, Compton, San Pedro, and Valley Glens have many eligible residents who are not enrolled. Thus, Metro correctly chose those locations for outreach events to reach the prospective population.

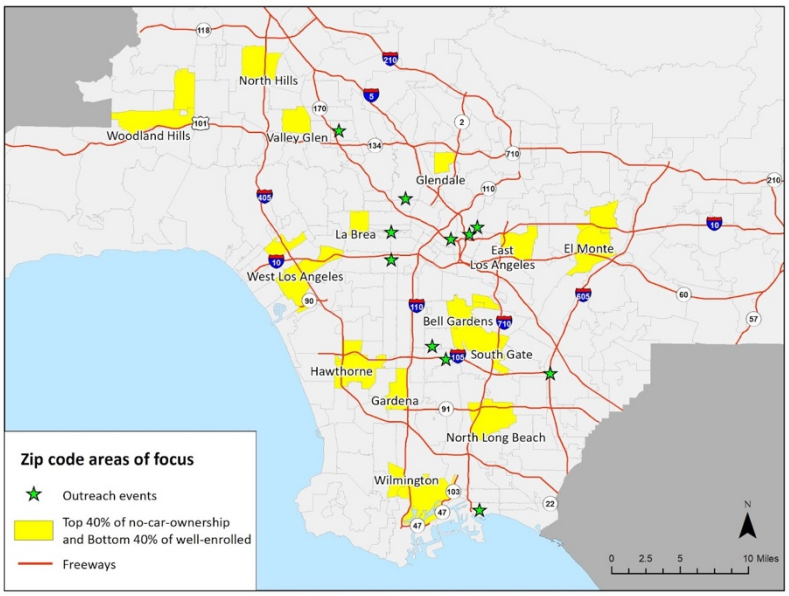
Map 2



Map 2 shows outliers representing the ZIP code areas where the actual enrollment is lower than predicted through regression analysis. In addition, Map 2 indicates that most ZIP code areas in and around Downtown Los Angeles are performing well, showing higher than predicted enrollment. On the other hand, we found that in other areas such as Bell Gardens, Norwalk, and El Monte, the enrollment should be higher given the relative income levels of those cities.

There were also areas identifiably underserved by Metro's outreach efforts. As Map 3 shows, there were a number of areas which were in the top 40% of zero car ownership and the bottom 40% of LIFE enrollment. It suggests that in order to increase the LIFE enrollment and also to reduce disparities in transportation access, Metro needs to pay areas such as Valley Glen, Hawthorne, and East Los Angeles.

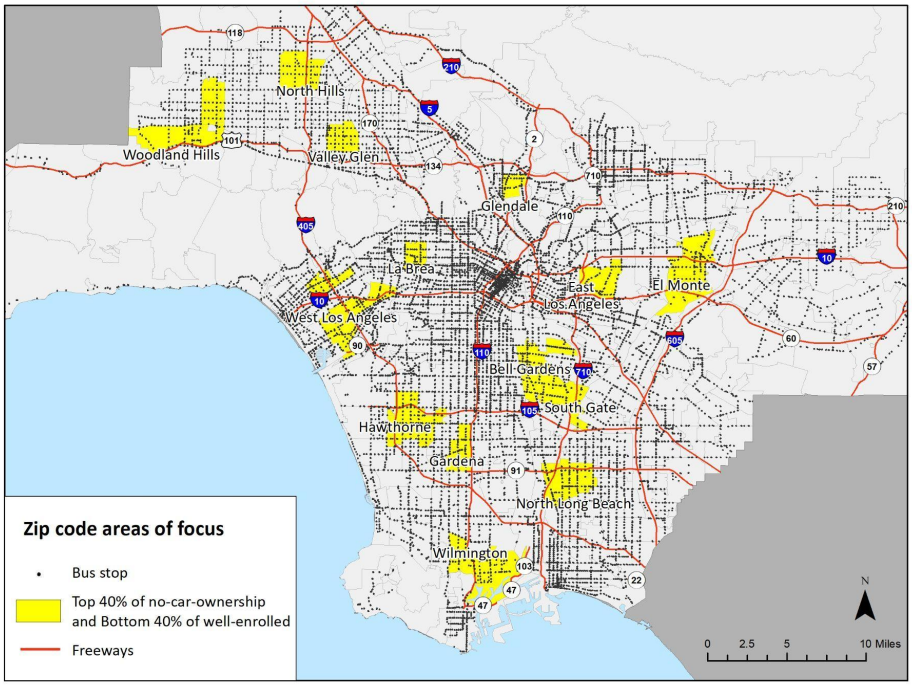
Map 3



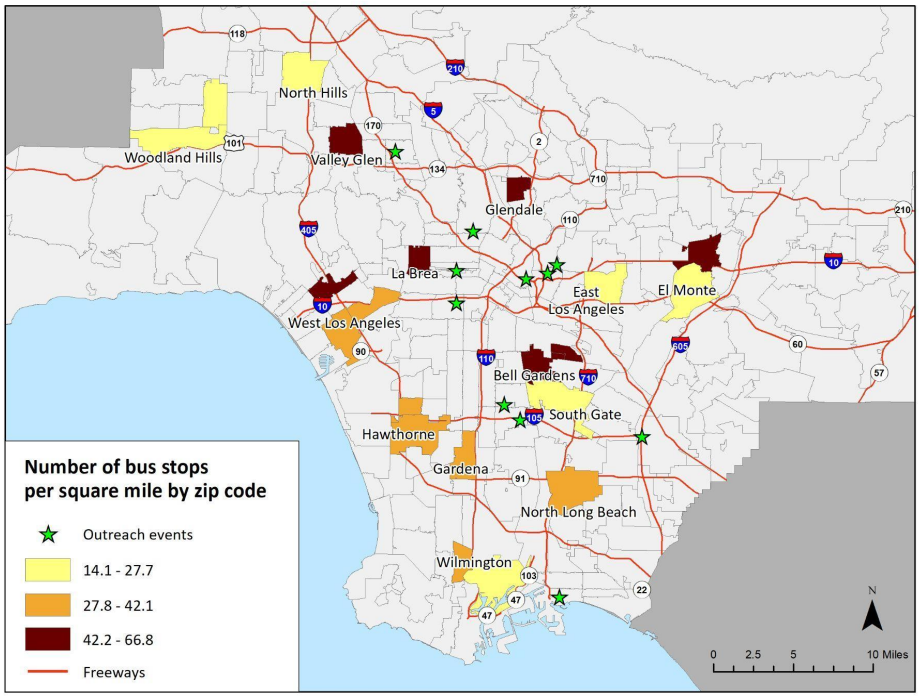
We considered the possibility that these areas may be underserved by Metro. If so, in order to increase LIFE enrollment there, Metro would need to focus on expanding coverage of the bus and rail system rather than holding outreach events. Therefore, we plotted Metro's bus stops, counted the number of bus stops by ZIP code, and calculated the density of bus stops. To this end, we plotted Metro's bus stops, counted the number of them in each ZIP code, and calculated the density.

Maps 4 and 5 show that Glendale, Valley Glen, and Bell Gardens have a high number of bus stops per square mile. Although many workers in these areas do not have access to a car and many low-income residents are expected to rely on public transportation, actual enrollment is well below projections. Despite this fact, outreach events have not been held in those neighborhoods. Therefore, we suggest that Metro focus more on these areas in order to increase LIFE enrollment and improve equity in transit access. On the other hand, the yellow areas, including East Los Angeles and South Gate, have relatively few bus stops per square mile, suggesting that Metro could increase LIFE enrollment by adding more bus stops in these areas.

Map 4



Map 5



Additionally, our difference-in-differences analysis was used to compare the increase in enrollment between outreach areas and non-outreach areas. The analysis asked in both the

outreach and non-outreach areas how many people were enrolled per week after the event, controlling for how many people had been enrolled per week before the event.

We concluded that outreach events had a statistically significant impact on enrollment growth. Assuming that the impact of outreach events lasts for two weeks, it is estimated that these events increase enrollment by approximately 16 persons. This figure is significant because the coefficients of the other variables can be interpreted to mean that without the events, there would be an increase of only 5 to 6 enrollments during the same 2-week period for the outreach area. In other words, outreach events tend to increase the number of LIFE enrollees per ZIP code by four times.

Survey Results

To identify the reasons why eligible people do not enroll in the LIFE program, we first collected the results of the existing customer surveys. Metro has conducted the "On-board Customer Satisfaction Survey" each year since 2003. This survey is designed to be distributed on all rail lines and nearly all bus lines, where train riders and bus users evaluate rail service and bus service, respectively. It collects a variety of user information from nearly 15,000 riders including their demographics, overall satisfaction, and perceptions of cleanliness and safety, which enabled us to examine potential problems of Metro service. Given the complex impact of the COVID-19 pandemic on rider demographics and satisfaction, we mainly examined the results of the Fall 2019 On-board Customer Satisfaction Survey (Fall 2019 Survey), as well as the trends over the previous years.

Table 3. Summary of On-board Customer Satisfaction Surveys from 2017 to 2019

		2017	2018	2019
Satisfaction	Bus	90%	91%	90%
	Train	88%	89%	89%
On-time performance	Bus	72%	83%	79%
	Train	84%	86%	86%
Safety	Bus	90%	91%	90%
	Bus stop	86%	87%	86%
	Train	79%	77%	79%
	Train station	80%	79%	80%
Cleanliness	Bus	84%	85%	85%
	Bus stop	72%	71%	69%
	Train	67%	64%	69%
	Train station	75%	74%	77%
Sexual Harassment	Bus	15%	18%	19%
	Train	21%	29%	28%

From existing customer surveys, we found general complaints about Metro services, such as safety concerns for both buses and rails, concerns about cleanliness at bus stops and on trains, and fears about sexual harassment. Although it is important for Metro to improve in all of these

areas if it wants to increase the number of LIFE enrollees, we also needed to identify more specific issues of the LIFE program that have made eligible people unwilling to enroll in the program. Therefore, we conducted an interview with the LIFE enrollees and eligible people for the LIFE program to identify the reasons that eligible people do not enroll in the program.

When asked about the reason for their less frequent ridership (multiple choices), 33% of respondents said that 'I have to wait a long time (less frequent service)' and 17 % said 'I cannot estimate the exact travel time (unstable service).' Eighty-three percent of respondents replied that they ride Metro mainly for commuting to work or school. Most responders used TAP cards (39%), passes (1-day, 7-day, and 30-day passes, 50%) to pay fares.

Forty-four percent of respondents said they never heard about the LIFE program. Among those who heard about the program, half of them said they heard about it on the bus or train. Twenty-eight percent of respondents said they are not enrolled in any welfare program such as CalFresh and Medi-Cal. Fifty-six percent of respondents answered that they are not enrolled in the LIFE program, although they are eligible. Within the group that was not enrolled in the LIFE program, half of them were not enrolled in any welfare program. Among those who are enrolled in the LIFE program, all said that LIFE is somewhat or definitely helpful in reducing financial burdens and is somewhat or definitely encouraging more public transit use.

Among those who are not enrolled in the program, 80% of respondents said they didn't know whether they will apply for the program, while 87% responded that they don't know enough about the program. All respondents who were not enrolled in the program thought that the program is somewhat or definitely helpful in reducing the financial burden and is somewhat or definitely encouraging public transit use. Most respondents who were not enrolled in the program think that the incentives Metro offers to increase the enrollment are helpful. Among those who stated a reason why the LIFE program might not encourage public transit use, 38 percent thought the fare was not the main reason why people were not using transit, and 62 percent thought the reason was that current service lines are not covering enough areas.

To sum up, it seems that riders have concerns about less frequent and unstable service. Many riders had not heard about the LIFE program, and those who had heard about it had done so on a bus or train. Riders think that the program is helpful in easing the financial burden and encouraging ridership. However, eligible non-enrollees hesitate to enroll in the program without more information.

Policy Options & Recommendation

We evaluated five policy options along multiple criteria metrics, which informed our policy recommendation: 1) the **effectiveness** of each policy option, 2) the **net financial cost**, 3) **time to completion** for the policy. By those factors, we can assess the efficiency of the options, in other words, how much those options efficiently increase the number of enrollees. Additional

considerations included Metro's values and the LIFE program's objectives such as increased ridership on bus and rail lines, as well as increased mobility and accessibility of public transit options for Angelenos more generally. Additionally, our analysis sought to detect any possible positive and negative **externalities** that reflected the total impact on society. Finally, we considered the relative levels of **feasibility** in implementing different policy options.

Option 1: Widening Enrollment Eligibility

Raising the current upper income limit to receive the LIFE discount could encourage more people to enroll in the program. The current income eligibility limit is set for the Very Low-Income families defined by HUD's Poverty and Lower Living Income Level for L.A. County 2021, which does not exceed 50 percent of the median family income. (U.S. Department of Housing and Urban Development) According to the guideline, HUD's Low Income Level is still higher than the LIFE program eligibility. Metro could raise the current upper limit to this level.

Table 4: Alternative Income Eligibility Levels

Family Size	Annual Family Income (HUD)		
	Low Income Level [1]	**Very Low Income Level [2]**	Extremely Low Income Level [3]
1	$66,250	**$41,400**	$24,850
2	$75,700	**$47,300**	$28,400
3	$85,150	**$53,200**	$31,950
4	$94,600	**$59,100**	$35,450
5	$102,200	**$63,850**	$38,300
6	$109,750	**$68,600**	$41,150
7	$117,350	**$73,300**	$44,000
8	$124,900	**$78,050**	$46,800
add 1 person	-	-	-

Discussion: Expanded eligibility would allow more people to meet the criteria, thereby enabling the LIFE program to benefit more people in need. An increase in the number of enrollees would produce a decrease in the Metro's fee collection revenue, which would be a direct financial burden for Metro. Nonetheless, but it would not directly increase the cost for existing riders, so the magnitude of the effect should be moderate. This option would require changing a basic rule for the LIFE program. A rule change would need the Metro Board's approval and a budget request for the program. It would take more than one year to implement a wider eligibility policy.

Although expansion of eligibility increases the number of enrolled participants and benefits relatively low-income people, it would not on its own necessarily achieve the full goals of the LIFE program. We should note that this option actually does not affect the very-low-income people (who are already eligible) and would likely benefit people who are working-class but not very poor.

Option 2: Increasing discount benefit

The LIFE discount rate is currently about half the cost of transportation, but this may not be enough to attract low-income people. Metro survey in 2019 showed that 63% of riders receive fare discounts, and yet only 8% of them are enrolled in the LIFE program. In fact, our survey result showed that 11% of low-income riders were not satisfied with the current fee system. To address this problem, the second policy option is to provide fare-free transit to the LIFE enrollees.

Discussion: There is a large body of literature showing that fare-free programs or fare reductions have a positive effect on ridership (Bleich). For example, the New York City Metropolitan Transportation Authority introduced fare incentives in the 1990s, including fare discounts for certain services and bulk purchases of MetroCard, which resulted in a 24% increase in systemwide ridership over a few years (Hirsch et al.). Also, the simplification and reduction in fares in Haifa, Israel in the late 2000s were shown to be effective, increasing ridership by 7.7% (Sharaby & Shiftan).

The volume of the positive effect is uncertain, however. Therefore, given the uncertainty based on the literature, we believe that this option's effectiveness is uncertain.

The financial costs of eliminating fares for all of the LIFE enrollees would be enormous because Metro would lose revenue from around 70,000 riders. This increased cost would be larger than that for policy option 1 because this option would affect not only the additional enrollees but also the existing enrollees. In addition, fare-free transit often attracts undesirable users who cause disruptions and commit crimes, which may increase the cost for Metro (Perone).

This option would increase the number of low-income riders, which would improve equity in transportation access. It would therefore meet one of the Metro's goals of enhancing the welfare of communities and lives through mobility and access to opportunity. But externalities of fare-free transit include adverse effects on service quality. As noted in the cost assessment, fare-free service may cause disruption and crime, which could drive other users away. As a result, some people might suffer from transit inconvenience.

Since Metro just resumed charging for bus rides in January 2022, the policy inconsistency could lead to a loss of trust in Metro from the public. In addition, frequent changes to transit fares would cause inconvenience not only to users, but also to employees who administer the system. Given these drawbacks, the feasibility of this option can be assessed as low.

Option 3: Selecting more prospective areas for outreach events

This policy option focuses on the gap between the number of people in the eligible population and actual enrollment. Our GIS analysis showed that this gap varies geographically by ZIP code

area and tends to be higher in and around Downtown Los Angeles. Also, through regression analysis, we identified areas that fall into the outliers, which should have more enrollment than other areas. Metro could hold campaigns and outreach events concentrated on these prospective areas.

Discussion: Our difference-in-differences analysis showed that the outreach events statistically significantly increased the number of LIFE enrollees per ZIP code by approximately 15 to 16 persons. Because all of the events in the data we analyzed took place before Metro began charging for bus rides in January 2022, which increased the value of the LIFE program to riders, the outreach events may have become more effective recently.

This policy option would make little change to the financial costs, as it only proposes that Metro resume its previous efforts and select more promising areas. As Policy Option 1, the magnitude of the impact of increased enrollment should be moderate. Metro already implemented this option in November and December 2021, so this option would take very little time to resume.

Option 4: Addressing riders' non-fare concerns

This option would focus on improving the quality of service, especially focusing on rider concerns. According to the 2020 Customer Experience Survey, when riders were asked to rate (on a scale of 1-10) their level of satisfaction on 40 different aspects of the Metro experience, three bottom items were 'shade at a bus stop (4.7)', 'presence of security staff on buses (4.6)', and 'personal security on Metro buses at night (4.8).' To encourage more ridership, it is important to address riders' most common concerns. Given the limited resources, Metro can start dealing with those concerns, by doing things such as:

- Expanding bus shelters to improve the environment of bus stops.
- Hiring more security staff and tightening emergency protocols for drivers to enhance security on buses

Discussion: We expect the improvement in service would lead to an increase in ridership. However, it is not clear how much increase in ridership can be attributed to safety enhancement and bus stop improvement. Moreover, it is uncertain whether it would eventually increase LIFE enrollment. In terms of installing bus shelters, there are about 8,000 bus stops in LA city and only 1,900 stops have shelters (Carpenter), and the average cost of a bus shelter is $25,000 (Investing in Place). Based on a simple calculation, it would require $152.5 million to install bus shelters throughout LA.

It is difficult to estimate the overall costs of adding more police officers to buses and trains, but if Metro were to hire security for every night bus, the cost would be significant. In December 2021, Metro renewed its policing contract with the LAPD, the Long Beach Police Department, and the L.A. County Sheriff's Department at a cost of around $75 million annually to the agency

(Garrova). Additionally, it is not guaranteed that an increased police presence would make all riders feel safer. An unintended consequence of this policy might be an increased number of violent incidents involving police or Sheriff's officers.

Option 5: Increasing bus service

Because reliability is consistently ranked as one of the reasons people don't ride transit and cited as a problem for those that do, increasing bus and rail service and meeting scheduled times, particularly for LIFE enrollees who rely on transit to get around, is critical. Failure to provide reliable service will limit any gains to riders or Metro from going fareless, as riders will continue to find alternatives to public transit.

Discussion: We would anticipate increased bus service to be an effective policy in achieving the benefits listed above. More reliable service, particularly on buses, would be expected to stabilize and potentially increase ridership in the medium- and long-term compared to the current baseline. It would in addition make participation in the LIFE program more valuable, as riders would be receiving better service.

The cost of this policy option is high. While estimating exactly how much is beyond the scope of this chapter, if increasing service in the ballpark of 10-20 percent from existing levels represented a ten percent increase from Metro's FY 2021-22 budget, that would be $800 million annually. This would likely require another American Rescue Plan-level investment of federal dollars or a new ballot measure along the lines of Measure M that increased the LA County sales tax rate, and possibly both of those steps in combination.

It is somewhat unclear how long it would take to implement the service increases. Given the need for Metro Board approval for prior changes in levels of service and that subsequent on-the-ground implementation of Board votes may take time, there could be a significant delay. If service reliability is dependent on additional expenditures to hire, train, and compensate a significant number of new bus drivers, it could take years to increase service substantially (Mann).

Table 6. Summary of Policy Options and Evaluation

Policy Options	Pros	Cons
1. Widening the enrollment eligibility: raising the annual income requirement	➢ Increase the number of enrollees ➢ More people can access the program	➢ Not effective to save people really in need ➢ Financial burden
2. Increasing discount benefit	➢ Increase the number of enrollees by higher incentive ➢ Raise the low-income rider's satisfaction	➢ The effect might experience time decay ➢ Enormous financial burden ➢ Adverse effects on service quality
3. Selecting more prospective areas for outreach events	➢ High statistical probability of increasing LIFE enrollment. ➢ Improved transportation equity ➢ Shorter time to completion	➢ Criticism regarding public health
4. Addressing riders' non-fare concerns	➢ Positive externalities ➢ Correspondence with Metro's goals	➢ Indirect prescription ➢ Long period to complete
5. Increasing bus service	➢ Increase the mobility ➢ Benefit businesses and employers ➢ Benefit employees ➢ Environmental benefit	➢ Financial challenge ➢ Logistical challenge

	Criteria					
Policy options	Main critria			Additonal considerations		
	Effectiveness	Net financial cost	Time to completion	Value / Objective	Externalities	Feasiblity
Option1: Ease requirement	High	Mid	Long	Mid	Uncertain	Mid
Option2: Increase discount benefit	Uncertain	High	Long	High	Negative	Low
Option3: Strategic outreach	High	Low	Short	High	Uncertain	High
Option 4: Removing concern	Uncertain	High	Long	High	Positive	Mid
Option 5: Restore service	High	High	Uncertain (Mid-to-Long)	High	Positive	Low

Recommendations

The most direct and efficient policy in the short run to increase the number of enrollees is to improve the current outreach events in order to attract people to join the LIFE program, i.e., Option 3. On the other hand, considering the timeline and cost-effectiveness, we conclude that policy 4 is not efficient in tackling LIFE enrollment issues. Although we acknowledge that Option 4 would contribute to Metro's overall service enhancement, it does not address very low-income riders specifically.

Over the longer term, however, policy options 1, 2, and 5 are still worth further researching in the future. Although the financial cost and time to completion of these policy options are considerable, obstacles to overcome, these policies align with the objective of the LIFE program and are essential to increasing mobility in ways that will meaningfully benefit low-income Angelenos.

At the beginning of the process that led to the fare-free pilot programs that are currently ongoing, the Metro Board expressed an intent to move towards a fully fare-free system. None of our findings indicate that this long-term goal should be abandoned. However, it is vital that the agency reverses the decline in ridership and service cuts as it pursues this goal. A fare-free Metro would represent something of a Pyrrhic victory if Angelenos can't actually get where they need to go. If the recent past is any indication, they will increasingly seek out other transportation options.

Conclusion

Through a series of analyses, we found that Metro's service covers most of the areas in need and that its outreach efforts were effective in increasing LIFE enrollment. However, we also found that only few eligible people enrolled in the program and that eligible non-enrollees often do not know about the program well. In addition, while Metro's selected areas for outreach events are concentrated in areas with many eligible people, it has not paid much attention to areas where a higher percentage of workers do not own a car and the enrollment has been lower than predicted from poverty levels.

Therefore, we recommend Metro enhance its outreach efforts by targeting specific areas in need. The first step would be to review the previous outreach events and to devise action plans for future outreach efforts. In the long term, Metro should not only increase service frequency but also expand the range of eligibility and lower the discount offered to achieve its larger goals.

References

"About Income." Census.gov. US Bureau of the Census, November 22, 2021. https://www.census.gov/topics/income-poverty/income/about.html.

Bleich, Kevin. Thesis. *A Review of Reduced and Free Transit Fare Programs at Public Colleges and Universities in California*. Thesis, UC Irvine, 2020. https://escholarship.org/uc/item/594122wf.

Bullard, Robert D., and Eric Mann. "Los Angeles Bus Riders Derail the MTA." Essay. In *Highway Robbery: Transportation Racism & New Routes to Equity*. Cambridge, MA: South End Press, 2004. https://sites.tufts.edu/carscultureplace2010/files/2010/10/Los-Angeles-Bus.pdf

Carpenter, Susan. "Los Angeles Bus Shelters Are about to Go High-Tech." *Spectrum News 1*, July 22, 2021. https://spectrumnews1.com/ca/la-west/transportation/2021/07/22/los-angeles-bus-shelters-are-about-to-go-high-tech.

"Fareless System Initiative (OPERATION FSI) Exploratory/Action Task Force." Metro, August 2020. http://metro.legistar1.com/metro/attachments/7869781d-a8df-4bff-af6b-385157d53fd8.pdf.

Federal Transit Administration , National Transit Database - Transit Profiles: 2020 Top 50 Reporters § (n.d.). https://www.transit.dot.gov/sites/fta.dot.gov/files/2021-11/2020%20Top%2050%20Profiles%20Report_0.pdf.

"FY 2022 Income Limits Documentation System." FY 2022 Income Limits Documentation System -- Summary. Accessed April 13, 2022. https://www.huduser.gov/portal/datasets/il/il2021/2021summary.odn.

Garrova, Robert. "LA Metro Votes to Extend Law Enforcement Contracts and Fund Public Safety Alternatives." LAist, December 3, 2021. https://laist.com/news/transportation/la-metro-votes-to-fund-law-enforcement-contracts-and-public-safety-alternatives.

George, Zach. "American Rescue Plan Provides $30.5 Billion to Support America's Public Transit Systems." National Association of Counties, April 21, 2021. https://www.naco.org/blog/american-rescue-plan-provides-305-billion-support-americas-public-transit-systems.

Goldbaum, Christina, and Will Wright. "'Existential Peril': Mass Transit Faces Huge Service Cuts Across U.S." The New York Times, December 6, 2020. https://www.nytimes.com/2020/12/06/nyregion/mass-transit-service-cuts-covid.html.

Goldberg, Nicholas. “Column: Can L.A.'s Public Transit System Survive the Pandemic?” Los Angeles Times, April 7, 2021. https://www.latimes.com/opinion/story/2021-04-07/los-angeles-public-transit-crisis.

Hirsch, Lawrence R., J. David Jordan, Robert L. Hickey, and Valdemar Cravo. “Effects of Fare Incentives on New York City Transit Ridership.” *Transportation Research Record: Journal of the Transportation Research Board* 1735, no. 1 (2000): 147–57. https://doi.org/10.3141/1735-18.

Hymon, Steve. “Fareless System Initiative Gives Update to Metro Board on Potential Pilot Program.” The Source, February 18, 2021. https://thesource.metro.net/2021/02/18/fareless-system-initiative-gives-update-to-metro-board-on-potential-pilot-program/.

Hymon, Steve. “Metro Board Approves Going Forward with Development of Fareless Test Program.” The Source, May 27, 2021. https://thesource.metro.net/2021/05/27/metro-board-approves-going-forward-with-development-of-fareless-test-program/.

Implementation and Outcomes of Fare-Free Transit Systems § (2012). https://cvtdbus.org/wp-content/uploads/2018/09/2012-07-TCRP-fare-free-report.pdf.

Investing in Place. “City of LA's Bus Shelter and Street Furniture Update.” Investing in Place, December 9, 2020. https://investinginplace.org/2020/12/09/city-of-las-bus-shelter-and-street-furniture-update/#:~:text=The%20average%20cost%20of%20a,expense%20after%20it%20is%20installed.

Investing in Place. “The Farebox Recovery Ratio: A Misleading Metric for Los Angeles County.” Investing in Place, May 11, 2017. https://investinginplace.org/2015/10/27/the-farebox-recovery-ratio/#:~:text=Farebox%20recovery%20is%20the%20percentage,of%20bus%20and%20train%20tickets.

“L.A. Metro Board Approves Development of Fareless Test Program.” Mass Transit, June 1, 2021. https://www.masstransitmag.com/technology/fare-collection/press-release/21224977/los-angeles-county-metropolitan-transportation-authority-metro-la-metro-board-approves-development-of-fareless-test-program.

“La Metro Board Approves Free Transit Pilot Program for Students.” LA Metro approves free transit pilot program for students, September 23, 2021.

https://spectrumnews1.com/ca/la-west/transportation/2021/09/23/la-metro-board-approves-free-transit-pilot-program-for-students.

Lee, Yongsung, and Bumsoo Lee. "What's Eating Public Transit in the United States? Reasons for Declining Transit Ridership in the 2010s." *Transportation Research Part A: Policy and Practice* 157 (2022): 126–43. https://doi.org/10.1016/j.tra.2022.01.002.

"Life Program Strategic Double Enrollment Plan." Metro Board, November 18, 2021. https://boardagendas.metro.net/board-report/2021-0732/.

Linton, Joe. "Metro CEO Phil Washington Announces 'Fareless System Initiative.'" Streetsblog Los Angeles, September 20, 2021. https://la.streetsblog.org/2020/08/27/metro-ceo-phil-washington-announces-fareless-system-initiative/.

Linton, Joe. "Metro Fareless Pilot Could Start August 2021, Initially for Students." Streetsblog Los Angeles, September 20, 2021. https://la.streetsblog.org/2021/04/21/metro-fareless-pilot-could-start-august-2021-initially-for-students/.

"LOW INCOME FARE Is EASY (LIFE) FY18 OPERATING GUIDELINES." Metro Board, January 17, 2018. https://boardagendas.metro.net/board-report/2017-0813/.

"Low-Income Fare Is Easy (Life)." LA Metro, March 30, 2022. https://www.metro.net/riding/life/.

McGregor, Sarah. "LA Conducts First Homeless Count Since Pandemic Hit." *Bloomberg*, February 22, 2022. https://www.bloomberg.com/news/articles/2022-02-22/los-angeles-conducts-first-homeless-count-since-pandemic-hit.

"Metro Awarded $1.24 Billion from Federal American Rescue Plan Act to Maintain Service and Project Progress during COVID-19 Pandemic." The Source, January 12, 2022. https://thesource.metro.net/2022/01/12/metro-awarded-1-24-billion-from-federal-american-rescue-plan-act-to-maintain-service-and-project-progress-during-covid-19-pandemic/.

"Metro Strategic Plan." LA Metro, February 11, 2022. https://www.metro.net/about/plans/metro-strategic-plan/.

Mosley, Tonya, and Serena McMahon. "Kansas City, Missouri, May Become Largest U.S. City to Eliminate Bus Fares." Kansas City, Missouri, May Become Largest U.S. City To Eliminate Bus Fares | Here & Now. WBUR, December 11, 2019. https://www.wbur.org/hereandnow/2019/12/11/kansas-city-free-bus-fare.

Nguyen, Terry. “Kansas City Is Making Its Bus System Fare-Free. Will Other Cities Do the Same?” Vox, December 17, 2019. https://www.vox.com/the-goods/2019/12/17/21026425/kansas-city-free-bus-system.

Perone, Jennifer. “Public Transportation Syntheses Series: Fare, Free or Something in between?,” 2004. https://doi.org/10.5038/cutr-nctr-rr-2002-05.

“Pressley & Markey Unveil Bold Legislation to Invest in Public Transit as a Public Good.” Representative Ayanna Pressley, July 1, 2020. https://pressley.house.gov/media/press-releases/pressley-markey-unveil-bold-legislation-invest-public-transit-public-good.

Rubin, Thomas A., and James E. Moore. “Los Angeles Metro Bus Is Very Productive and Cost Effective, Rail ... - Reason Foundation.” Reason Foundation. Accessed April 13, 2022. https://reason.org/wp-content/uploads/metro-28-by-2028-effectiveness-bus-rail.pdf.

Sharaby, Nir, and Yoram Shiftan. “The Impact of Fare Integration on Travel Behavior and Transit Ridership.” *Transport Policy* 21 (2012): 63–70. https://doi.org/10.1016/j.tranpol.2012.01.015.

Tap. “LIFE.” TAP, n.d. https://www.taptogo.net/articles/en_US/Website_content/Fare-Subsidy-LIFE.

Taylor, Brian D., Evelyn Blumenberg, Jacob L Wasserman, Mark Garrett, Andrew Schouten, Hannah King, Julene Paul, and Madeline Ruvolo. “Transit Blues in the Golden State: Analyzing Recent California Ridership Trends.” UC Office of the President: University of California Institute of Transportation Studies, June 29, 2020. https://doi.org/10.17610/T67W2Z.

Vega, Priscella. “L.A. Metro Votes to Create Financial Plan for Offering Free Rides to Students, Low-Income Riders.” Los Angeles Times, May 28, 2021. https://www.latimes.com/california/story/2021-05-27/l-a-metro-votes-to-create-financial-plan-to-launch-program-offering-free-rides-to-students-low-income-riders.

Verma, Pranshu. “Public Transit Officials Fear Virus Could Send Systems Into 'Death Spiral'.” The New York Times, July 19, 2020. https://www.nytimes.com/2020/07/19/us/coronavirus-public-transit.html.

Zhang, Sijia, Shunping Jia, Cunrui Ma, and Yuqiong Wang. “Impacts of Public Transportation Fare Reduction Policy on Urban Public Transport Sharing Rate Based on Big Data Analysis.” *2018 IEEE 3rd International Conference on Cloud Computing and Big Data Analysis (ICCCBDA)*, 2018. https://doi.org/10.1109/icccbda.2018.8386527.

Chapter 8

Backlash: California Moves Left and Right:

The Rumford Fair Housing Act and Proposition 14 of 1964

Daniel J.B. Mitchell

Professor-Emeritus, UCLA Anderson School of Management
and UCLA Luskin School of Public Affairs

In 1963, the California legislature enacted, and Governor Pat Brown signed, the Rumford Fair Housing Act. The new law banned discrimination in selling or renting housing on the basis of race, color, religion, national origin, or ancestry. As originally proposed, it covered for-sale and rental or leased housing with the very notable exception of "*a single-unit dwelling occupied in whole or in part by the owner as his residence*."[1] As enacted, the exemption from coverage was further enlarged to exclude any "*dwelling containing not more than four units.*" The Act included a ban on discrimination by real estate agents and financial institutions involved in selling housing, renting housing, or lending to finance housing.

Although there was some precedent for such legislation outside of California, the new law can be seen as pioneering for its enactment at a time before the federal Civil Rights Act of 1964, and at a time of turmoil in the segregated South that faced an increasingly active civil rights movement. In political terms, California had clearly moved leftwards in adopting the Rumford Act. A year later, California – which had gone Republican in the presidential elections of 1952, 1956, and 1960, gave its electoral votes to incumbent Democratic President Lyndon Johnson who defeated conservative Republican candidate Barry Goldwater. Again, California politics had seemingly swung to the left.

However, also on the ballot in presidential year 1964 was Proposition 14, a constitutional amendment that not only voided the Rumford Act but banned state and local governments from restricting "*the right of any person… to decline to sell, lease, or rent… property to such person or persons as he, in his absolute discretion, chooses*."[2] In effect, Prop 14 both effectively repealed the Rumford Act and made it impossible for the legislature to adopt anything similar to that Act in the future. Paradoxically, California - in presidential politics - moved left, but in housing and civil rights, it moved to the right. It also moved to the right in a U.S. Senate race in that same 1964 election, replacing a Democrat strongly opposed to Prop 14 with a Republican who refused to give an opinion. How should we understand this contradictory left-right behavior?

The usual presentation of what happened in 1963-64 is condensed in hindsight as a case where a liberal legislature and governor enacted the Rumford Act and a conservative electorate repealed it, without much attention to the presidential politics of that period. The neglect of the paradox is likely rooted in the fact that after litigation, Prop 14 was ruled unconstitutional, both by the state and the U.S. Supreme Courts, and the Rumford Act went back into effect.[3] So, the Rumford/Prop 14 story in hindsight looks like just a delay – a bump in the road – on the way to a more tolerant California society.

At the time, however, the Rumford/Prop 14 episode was seen as more than a mere bump in the road. In 1965, less than a year after Prop 14 was enacted, the devastating Watts Riot broke out in Los Angeles. The official McCone Commission report on the riot opined that the passage of Prop 14 was an "*aggravating event*" in the violence because it "affronted" the Black community.[4]

---

[1]Although much as been written about the Rumford Act, its original text is hard to find. However, it is reproduced at https://archive.org/details/00-00-rumford-fair-housing-act-of-1963/. At that link is the original text as submitted in February 1963 and as amended and enacted in June 1963.

[2]The full text of Proposition 14 can be found, along with other propositions, on the ballot in November 1964 at https://repository.uchastings.edu/cgi/viewcontent.cgi?article=1675&context=ca_ballot_props.

[3]*Mulkey v. Reitman*, 64 Cal 2d 529 (1966). The case went on to the U.S. Supreme Court where Prop 14 was again declared unconstitutional in *Reitman v. Mulkey*, 387 US 369 (1967).

[4]Governor's Commission on the Los Angeles Riots (McCone Commission), *Violence in the City: An End or a Beginning?* (December 2, 1965), p. 4. Available at https://archive.org/details/ViolenceInCity/.

So, what exactly happened in the period from the enactment of the Act to its temporary voiding? The voters who enacted Prop 14 had earlier elected the legislature that produced the Rumford Act and then voted for a president who was noted for signing a far-reaching federal civil rights law. This chapter explores that paradox. The Rumford/Prop 14 story suggests that an underlying political shift was taking place in California that continued for many years and, arguably, had national and even international repercussions.

Background: W. Byron Rumford

William Byron Rumford, an African American pharmacist from Berkeley, was elected to the state assembly in 1948 and developed a reputation as a strong proponent of civil rights legislation.[5] He had been born in an Arizona mining town in 1908, before Arizona became a state, and was raised by his mother – and later a stepfather - after his father left soon after his birth. At one point growing up, teenage Rumford became a boxer. There was talk of his having a match with a White boxer named Barry Goldwater, the same Goldwater who would later be on the presidential ballot in 1964 when Prop 14 was up for a vote! Goldwater in fact said that he did box with Rumford, but that is contrary to Rumford's recollection.[6] Such interracial boxing matches were at the time reportedly forbidden under Arizona law.

Rumford's family placed a high value on education. (The "Byron" in his name was after Lord Byron, the British poet.) In part because of the focus on education, members of his family in addition had been involved in protests against school segregation. Ultimately, Rumford moved to California and attended the UC College of Pharmacy in San Francisco while working a variety of jobs. He married and, while working as a pharmacist, attended UC-Berkeley earning an undergraduate degree in 1948.

As a Berkeley businessman, Rumford became involved in local politics and was appointed by then-Governor Earl Warren first to a rent control agency in Berkeley and subsequently to a housing agency concerned with finding housing for nonwhite war workers during World War II. After the war, Rumford was nominated by local Democrats for a vacant state assembly seat from the Berkeley area and prevailed in the primary and general elections of 1948. In those days, the legislature was a part-time affair and members generally needed to continue their outside work. So, Rumford continued to operate his pharmacy as an assemblymember.

Background: A Democratic Sweep

In 1958, a series of Republican political blunders led to a Democratic takeover of the legislature and governorship.[7] With the support of Governor Pat Brown and powerful Assembly Speaker Jesse ("Big

---

[5]The section follows the narrative in Lawrence P. Crouchett, *William Byron Rumford: The Life and Public Service of a California Legislator* (Downey Place Publishing House, 1984). There is an audio recording of an interview with Rumford at https://archive.org/details/caolaam_000170. Rumford was interviewed as part of the Earl Warren Oral History Project. A transcript is at Earl Warren Oral History Project, *Legislator for Fair Employment, Fair Housing,* Earl Warren Oral History Project, *Legislator for Fair Employment, Fair Housing, and Public Health: William Byron Rumford*. Available at https://oac.cdlib.org/ark:/13030/kt5h4nb0wd/?brand=oac4.

[6]"Barry Here, Recalls Boxing Rumford," *San Francisco Examiner*, March 31, 1964; Crouchett, p. 8.

[7]California Republican U.S. Senator and Senate minority leader William Knowland had presidential ambitions and thought he needed to become governor before the 1960 presidential election to be a viable candidate. Knowland's view that a senator couldn't be elected president is particularly ironic since we know in hindsight that Senator John F. Kennedy of Massachusetts was elected president in 1960. In any case, Knowland undermined the candidacy of incumbent Republican Governor Goodwin ("Goody") Knight, with the end result that Knight was forced to run for

Daddy") Unruh, the new and relatively liberal legislature enacted the Fair Employment Practices Act in 1959.[8] The law created the Fair Employment Practices Commission (FEPC) as its administrative agency. Rumford's proposal in 1963 was to add anti-discrimination in housing to the purview of the FEPC as well as anti-discrimination in employment.

Restrictive Covenants

Many housing developments of that era had been established with exclusionary deed restrictions – restrictive covenants – banning Blacks, Jews, Mexicans, and Asians. Subsequent owners of such properties were thus prohibited from selling to anyone from a banned group listed on the deed. A 1948 U.S. Supreme Court decision – *Shelley v. Kraemer* – invalidated such language in deeds, i.e., made the provisions unenforceable in state courts.[9] The Court viewed enforcement as a "state action" forbidden by the Fourteenth Amendment.[10] However, nothing in the decision forbade a property owner from continuing to discriminate voluntarily; the owner could just not be forced to abide by the restrictive covenant. (In fact, in California, the unenforceable language in such deeds continued to be passed from owner to owner with the racist provisions included until legislation enacted in 2021 facilitated removal of the language.)

Passage of the Rumford Act

Prior to the Rumford Act, there were limited legal avenues available to challenge housing discrimination. California law in general terms had prohibited discrimination in public accommodations since 1886. In 1959, the law was strengthened by the Unruh Act and the Hawkins Act, the latter focused on publicly-assisted housing. However, such avenues of redress involved lawsuits and the glacially slow movement of cases through the courts – to an uncertain conclusion.[11] If the FEPC became involved – as under the proposed Rumford Act – complaints could be filed, and the agency would handle them. Moreover, the

---

the U.S. Senate and Knowland ran to replace him as governor. That manipulative action and other missteps led to Knowland's loss to Pat Brown for governor, Knight's loss, and a more general Democratic sweep. For more on this episode and about Knowland, see Gayle B. Montgomery and James W. Johnson, *One Step from the White House: The Rise and Fall of Senator William F. Knowland* (University of California Press, 1998). Available at https://publishing.cdlib.org/ucpressebooks/view?docId=ft4k4005jq;brand=ucpress.

[8]The narrative that follows is based on Bill Boyarsky, *Big Daddy: Jesse Unruh and the Art of Power Politics* (University of California Press, 2008), especially chapter 7. Unruh during his legislative reign was overweight. The "Big Daddy" appellation was based on an overweight character in a Tennessee Williams play and movie, *Cat on a Hot Tin Roof*. Unruh later lost the excess weight and ran unsuccessfully for governor of California and for mayor of Los Angeles. He eventually succeeded in becoming state treasurer.

[9]*Shelley v. Kraemer*, 334 U.S. 1 (1948). Available at https://supreme.justia.com/cases/federal/us/334/1/#tab-opinion-1939375.

[10]The post-Civil War Fourteenth Amendment declares in part that "*no State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws*."

[11]Peter P.F. Radkowski III, "Managing the Invisible Hand of the California Housing Market, 1942-1967," *California Legal History Journal*, April 2015. Available at https://www.law.berkeley.edu/wp-content/uploads/2015/04/radkowski-paper.pdf. Arthur Wayne Hartgraves, "A Study of Proposition 14 of the 1964 California General Election," unpublished master's thesis, University of the Pacific, 1967. Available at https://scholarlycommons.pacific.edu/uop_etds/1642/.

FEPC – as an existing agency – already had a staff and procedures. The proposed Act would not require building a new agency from scratch.

To get a controversial bill through the legislature in 1963, Rumford would need the support of the powerful Assembly Speaker Unruh. Unruh, a southern California assemblymember who came from a poor, White working-class background, was leery of the politics of an additional piece of civil rights legislature in the touchy area of housing. In his initial view, prior legislation dealing with employment discrimination was sufficient. As Unruh put it, "*We've just about done for the minorities… Now we have to work on the problems of the majority…*"[12]

While such language seems politically incorrect today, Unruh – back in 1963 – had some evidence for his concern about moving from existing employment discrimination legislation into the area of housing. The City of Berkeley's city council had passed a municipal fair housing ordinance. In response, signatures were quickly collected for a referendum repealing it, a repeal effort which succeeded. If it could happen in Berkeley, Unruh feared, it could happen statewide should the legislature enact a similar law.

But despite the Berkeley experience, key Democrats - such as Governor Brown and Attorney General Stanley Mosk – favored the Rumford proposal. Unruh went along, but he insisted that some key changes to the original proposal be made, notably widening the exemption from just owners of single-family homes to owners of small apartment houses – often mom and pop landlords – with four or fewer units. Rumford agreed to the changes.[13]

However, even if the Rumford bill, as amended, passed the Assembly, it would also need the concurrence of the state Senate. At the time, the civil rights movement was split between the mainline "moderate" groups such as the NAACP and new and younger activists in the Congress of Racial Equality (CORE). CORE sponsored various sit-in demonstrations in the state capitol building which ultimately attracted both state and national attention. Rumford was concerned that such militancy would antagonize potential legislative supporters. However, the Kennedy Administration – which had itself been under pressure to do more in the area of civil rights – intervened.[14] With pressure mounting and a deadline for passing legislation by midnight of June 21, 1963 approaching, some last-minute parliamentary tactics by Unruh got the bill enacted between 11 pm and midnight.

Not Always a "Blue" State

This brief summary of events surrounding the Rumford Act may seem puzzling to contemporary readers who think of California as a "blue" state with "progressive" inclinations. But the California of the early 1960s was quite different from today's multicultural state. In the 1960 Census, of the state's 15.7 million people, about 9% of the population was listed as having a "Spanish surname," the closest the Census came to Latinx or Hispanic today. Most of the Spanish-surname population was listed in the Census as

[12]Quoted in Boyarsky, p. 92.
[13]Note that the exemptions refer to owners, not to the properties by themselves. For example, a developer of multiple tract single-family houses could not discriminate, even though the houses were single-family.
[14]The famous 1963 March on Washington – where Martin Luther King, Jr. gave his famous "I Have a Dream" speech – took place later that year with the aim of pressuring President Kennedy on civil rights.

"White." The Black population was about 6% of the total. Other nonwhites – mainly Asian and Filipino – constituted about 2%.[15]

The big wave of immigration into California of the late twentieth century was yet to occur, in part due to highly restrictive federal immigration laws that had been in effect since the 1920s. California's population at the time was growing rapidly from the natural increase of the baby boom and – importantly – a continuous influx of residents of other states. But its electorate was very heavily non-Hispanic White, often with backgrounds in the Midwest and the South. When Unruh spoke of turning to the needs of the "majority," these were the folks to which he was referring. Nonetheless, although there were on-and-off tensions between Governor Brown and Unruh, Brown clearly wanted the Rumford Act passed, and Unruh eventually obliged despite his own reservations about the political impact of the legislation.[16]

Background: The California Real Estate Association

The 40,000 member California Real Estate Association (CREA) – now known as the California Association of Realtors – became the center of opposition to the Rumford Act and spearheaded the campaign for Proposition 14.[17] It complained that it had been "mousetrapped" by Unruh's midnight passage of the Rumford Act and that it didn't have sufficient time as a result to register its opposition.[18] CREA cast itself as a champion of constitutionally-protected property rights, i.e., the right of property owners to sell or rent to anyone they wanted or to refuse to sell or rent to anyone for any reason.

The Real Estate Complex

CREA was part of an interlocking group of real estate-related entities - national, state, and local - that had generally opposed fair housing legislation in the past. It controlled the trade-marked title "realtor®" and access to property listings. It generally supported the existing pattern of housing segregation in California. (A separate Consolidated Realty Board in Los Angeles represented Black real estate agents who handled sales in predominantly Black neighborhoods.)

As an example, it was quite possible in the early 1960s for a prominent spokesperson for the real estate industry to make racially-charged statements in public without embarrassment.

> "*I say that the Negro has as many rights today in this state as I have. He may not have as many social privileges yet because they have not earned them yet. They're on their way to earning them, but it takes time… I sympathize with all these minority groups but [at] the same time I*

[15]Data from the U.S. Bureau of the Census at https://www2.census.gov/library/publications/decennial/1960/population-volume-1/vol-01-06-d.pdf and https://www2.census.gov/library/publications/decennial/1960/population-volume-2/41927938v2p1a-1ech04.pdf.
[16]Brown had a history of opposition to racial discrimination and antisemitism although he admitted in interviews in later life that he had grown up with prejudices against Asians and gays and did not really begin to think about women's rights until after taking office. See Ethan Rarick, *The Life and Times of Pat Brown: California Rising* (University of California Press, 2005), chapter 12.
[17]Membership estimate from Radkowski, p. 59.
[18]Tom Cameron, "CREA Presses Housing Fight," *Los Angeles Times*, January 19, 1964.

think they've got to be big enough to recognize that the majority has some rights in this picture also."[19]

Such sentiments were firmly baked into the California real estate industry. Indeed, it was viewed at one time as unethical for a realtor to integrate an area which resisted integration since doing so might reduce property values.[20] Although the property value rationale was later dropped as an official cause for realtor discrimination, the defense then became simply that homeowners had a "freedom of association" to live with neighbors they wanted. "*Birds of a feather flock together as a matter of nature*," as a spokesperson put it, and real estate agents weren't about to disrupt their conception of the natural order of things.[21]

Motivation

Note that the role of CREA in opposing the Rumford Act and pushing Prop 14 does not seem easy to rationalize on purely economic grounds. Its members were basically earning a living by aiding transactions. If the law required them to refer clients on a non-discriminatory basis, the sellers – legally or not - could simply reject bids. The Rumford Act, as initially written, exempted single-family homes, and as amended it exempted small apartment houses. So many such bid rejections – if they occurred – would have been legal in any case. The seller or renter of exempted properties was free to discriminate under Rumford. But to the extent they didn't discriminate, the real estate agent would earn a commission on the sale.

Put another way, there really didn't seem to be an economic interest of real estate agents in maintaining housing segregation, and yet CREA was a leader in doing so. Real estate agents don't own or rent the properties they represent; they simply promote the sale or rental of such properties and earn their incomes from the transfer. If a property owner wanted to reject bids for property or prospective renters, that was the owner's business. But on a strictly economic basis, was it really worth it for CREA to engage in a costly statewide campaign for a ballot proposition barring fair housing?

That question generally has not been asked when the Rumford/Prop 14 episode is recounted. The motivation for the campaign, and for the longer history of CREA and other real estate entities to oppose fair housing, seems to be the racial attitudes of CREA leaders and of most of their members. The motivation did not seem to be pure economics.

Property Rights vs. Civil Rights

In fact, in response to just the possibility of some kind of state fair housing legislation being enacted at some future date, CREA was already contemplating a Prop 14-type campaign even *before* the Rumford Act was formally submitted to the legislature.[22] That CREA was looking ahead was not surprising. At the national level, the National Association of Real Estate Boards (NAREB), fearing pressure from Congress and – perhaps – from the Kennedy administration, had developed a campaign strategy for promoting a

[19]Quoted in Radkowski, p. 40.
[20]Radkowski, p. 43.
[21]Quoted in Gene Slater, *Freedom to Discriminate: How Realtors Conspired to Segregate Housing and Divide America* (Heyday, 2021), p. 210. This book more generally describes the development of the ideology and rationale of the CREA and other elements of the real estate establishment.
[22]Hartgraves, pp. 15-16.

"Property Owners Bill of Rights" against "forced housing." California, with its system of direct democracy (ballot propositions), would be a proving ground for pushing for such rights nationally.[23]

Background: Supporters of the Rumford Act and Opponents of Prop 14

Assemblymember Rumford was not acting in a vacuum when he introduced his Fair Housing Act. There was a general civil rights struggle against segregation – not just in housing – underway at the time which itself had a history of decades. Groups involved in the housing issue included the NAACP, CORE, the American Civil Liberties Union, the American Friends Service Committee (Quakers), the Japanese American Citizens League, the Anti-Defamation League (Jewish), and many others.

Not surprisingly, these various groups did not always see eye-to-eye on issues and strategy - and frictions could arise. Of course, there could be disagreements within the opposition to Rumford, too. But the disparate groups favoring Rumford were passionate about their viewpoints and were at some disadvantage compared with the more unified CREA and related real estate entities.

Also a disadvantage at the time was the potential for tarring supporters of fair housing or "open occupancy" in the Cold War background of the period. Liberal and left causes were often branded as communistic by those on the right. The U.S. was in competition with the Soviet Union with a background of the threat of atomic war between the two blocs. In fact, the segregationist practices in the U.S. were harmful to the image of the U.S. in "third world" countries in which both sides were competing for political influence. But that was a complex argument to make in the context of a state political contest. American communists in the 1930s and later had allied themselves with liberal causes including desegregation. So, opponents of anything on the liberal/left agenda – including fair housing – frequently labeled their enemies as communists or socialists or "dupes" of communists or socialists.

Background: The National and State Political Climate

California's Rumford Act was passed at a time when politicians were looking ahead to the presidential election of 1964. Incumbent John F. Kennedy had been elected by a narrow margin in 1960, and without the electoral votes of California. Five months after passage of the Rumford Act, Kennedy was assassinated in Dallas and his vice president, Lyndon Johnson, became president. Johnson thereby also became the Democrat's candidate for president in 1964. Prior to the assassination, the outlook for Kennedy's reelection had been iffy. He had submitted a civil rights bill to Congress but the outlook for its passage was as uncertain as his reelection.

Johnson as president pushed the civil rights bill through Congress. His action accelerated the shift in the two political parties. Segregationist Democratic voters in the once "solid South" were tilting towards Republicans. The Republican Party was split between its relatively liberal-moderate wing, identified in the early 1960s with New York governor Nelson Rockefeller, and a conservative wing flocking to Arizona senator Barry Goldwater. The two parties were realigning from their post-Civil War positions.

Goldwater ultimately became the GOP's nominee in 1964, losing in a landslide to Johnson, but picking up southern electoral votes. These national party realignments were reflected in California's political scene. Although some state Republicans abandoned Goldwater as a right-wing extremist, Ronald Reagan

[23]Jennifer Burke, "The National Association of REALTORS® and the Fair Housing Mandate, 1961-1991," unpublished doctoral thesis, University of California, Santa Cruz, 2016. Available at https://escholarship.org/uc/item/2z64m8g6.

supported him, paving his way in 1966 for his successful run for governor, defeating incumbent Governor Brown. Thus, California's fight over the Rumford Act and Proposition 14 became intertwined with the larger national political shifts and had a continuing influence in subsequent state elections.

The Beginning

Although CREA had been contemplating some kind of ballot proposition even before Rumford, its leadership was surprised that the Rumford Act was in fact enacted when it was. As noted, the bill had been stalled in the legislature and only a parliamentary maneuver just before the midnight deadline sent it to the governor for signature. With the bill suddenly turned into law, the (influential) *LA Times* editorialized:

> "*One of man's most ancient rights in a free society is the privilege of using and disposing of his private property in whatever manner he deems appropriate, however selfish or noble that might be. We do not question the good faith of those who would abrogate this privilege. But we do feel, and strongly, that housing equality cannot safely be achieved at the expense of another basic right. Civil rights may be enforced by legal means, whereas social rights involve men's consciences. In the last analysis the answer to social discrimination must come through education, understanding, and persuasion*."[24]

The *Times*' position on Rumford foreshadowed its eventual editorial endorsement of Prop 14. It is interesting to note the wording about "safely" achieving the goal of the Rumford Act. At the time, it was not unusual for there to be violence when a Black family moved into a White neighborhood. In short, the *Times* seemed to want to avoid projected unrest. In mid-July, a *Times* columnist wrote approvingly of newly-elected African American LA city councilmember Tom Bradley because he avoided promoting protests and demonstrations. But it noted that Bradley approved of the Rumford Act and thought integrated housing would improve "*communication*" between the races.[25]

Rejection of the Referendum Route

There was an effort independent of the CREA to repeal the Rumford Act via a referendum. A referendum petition – if enough signatures were gathered – would prevent the new Act from going into effect until an election in which voters could choose between endorsing it or rejecting it. CREA did not participate in the effort which was headed by a Berkeley resident who headed a group called the Citizens League for Individual Freedom. CREA understood that a referendum, even if successful in repealing the Rumford Act, would not prevent the legislature from adopting something similar in the future. If the legislature had done it once, it might do it again. Without CREA support, the referendum petition drive failed to gather sufficient signatures.[26] And the FEPC in September began enforcing Rumford.[27]

Meanwhile, the CREA met in convention in Los Angeles amid continued discussion of a ballot initiative other than a referendum. By the end of the convention, CREA's then-president L.H. ("Spike") Wilson announced that there would indeed be an initiative campaign. Guest convention speaker Ronald Reagan

---

[24]"Our Collective Conscience," *Los Angeles Times*, June 26, 1963.
[25]Richard Bergholz, "Tough Job Confronts Negro Councilman," *Los Angeles Times*, July 15, 1963.
[26]Hartgraves, pp. 17-18.
[2727] "State Starts Enforcing New Fair Housing Act," *Los Angeles Times*, September 21, 1963.

– still a TV and movie actor at the time – said he opposed "*suggested legislation which infringes on the private rights of the individual*."[28] A spokesperson for the FEPC denounced the developing CREA campaign as "*an open declaration of war upon the legitimate housing aspirations of at least three million Californians*."[29]

In early November 1963, the initiative that would eventually become Prop 14 was filed with the state attorney general, Stanley Mosk, a Democrat who favored the Rumford Act and opposed the initiative. CREA and other real estate entities formed a committee called Americans to Outlaw Forced Housing to be chaired by CREA's president Wilson. Wilson declared that "*every American should continue to have the right to refuse to rent, lease, or sell to anyone, and for any reason*."[30]

A Fatal Flaw

The initiative which CREA developed contained what would later be seen as a fatal flaw – not for getting it enacted by voters but for an eventual and inevitable court challenge and review. State court enforcement of restrictive covenants, as noted earlier, had been struck down by the U.S. Supreme Court on grounds that such enforcement constituted "state action" in violation of the Fourteenth Amendment. Putting a provision in the California state constitution that would repeal existing civil rights under Rumford and other statutes could be construed as a form of forbidden state action.

Lawyers for CREA knew that such constitutional arguments would be made. But they thought that since California would just be returning to the position it had before Rumford was enacted, challenges to their proposition would fail. As it turned out, their expectation was disappointed.[31] From the beginning, opponents of the initiative – such as state controller (and later U.S. Senator) – Alan Cranston picked up the theme of a constitution violation inherent in the initiative.[32]

Initial Organizing

With the filing of the initiative, what would today be called a wedge political issue had been launched. A little over 468,000 valid signatures would need to be acquired for the initiative actually to appear on the ballot. Meanwhile, because CREA had not chosen the referendum route, the Rumford Act would remain in effect until the November 1964 election. Local real estate organizations organized to gather the needed signatures and speak to local service clubs and other groups. On the other side, liberal groups, notably the California Democratic Council (CDC) – an organization of the liberal wing of the Democratic Party - began to organize an opposition campaign.

As the battle lines began to form, there was some division within the ranks on both sides. Some local real estate groups supported the Rumford Act and opposed the initiative drive. Some resisted an

[28]Quoted in Tom Cameron, "State Realtors Declare War Against New Housing Law," *Los Angeles Times*, September 27, 1963.
[29]Quoted in "FEPC Official Attacks Foes of Housing Act," *Los Angeles Times*, October 2, 1963.
[30]Quoted in "Initiative Filed to Kill New Fair Housing Act," *Los Angeles Times*, November 7, 1963.
[31]Slater, p. 251.
[32]Cranston said that "*when you weaken or destroy the civil rights of any group of people, you do violence not only to the Constitution but to all the people*." Quoted in Leon H. Washington, Jr., "Wash's Wash," *Los Angeles Sentinel*, May 21, 1964.

assessment of funds from members by the CREA to support the drive. They were denounced by CREA president Wilson as a "*rump realtor movement*."[33]

Mainline Protestant and Jewish religious groups generally supported Rumford and opposed the initiative. But some conservative clerics saw the threat of communism in the Rumford Act. And while the CDC and the liberal wing of the Democratic Party supported Rumford, there were obviously many rank-and-file Democrats who ultimately voted for what became Prop 14.

Tensions in the GOP

Republicans at the time ranged from conservative to liberal-moderate and split along those lines. Caspar Weinberger, then Republican state chair, argued that the GOP shouldn't support the initiative simply because key Democrats opposed it and noted that there was bipartisan support for the Rumford Act in the legislature when it passed.[34] Weinberger, however, did not speak for many others in his own party. Republican Secretary of State Frank Jordan initially supported the initiative, but later backed off and said he would remain neutral. Republican Superintendent of Schools, Max Rafferty, remained neutral, but under pressure to oppose the initiative from the State Board of Education, eventually said that he opposed it under the rationale that its passage would cause trouble in the schools.[35]

Meanwhile, a pattern developed of debates between proponents and opponents of the initiative, even before the requisite number of signatures had been gathered. At a UCLA meeting in early December 1963, for example, academics generally favored Rumford and opposed the CREA initiative. A law professor from Hastings College of Law argued that "*property rights cease when civil rights involving the public welfare are at stake*." A CREA representative argued that "*the right of property owners freely to determine with whom they will deal is a right fundamental in the American tradition*." This juxtaposing of asserted rights continued until the election.[36]

Going Beyond a Referendum

What may have also continued from this early period was the confusion over the difference between a referendum on the Rumford Act (which had failed for lack of sufficient signatures) and a constitutional amendment that would forever ban any kind of housing anti-discrimination laws. For example, in mid-December 1963, the La Mirada Chamber of Commerce – apparently wishing to sidestep the debate – took a position that it neither favored nor opposed Rumford. But it instead endorsed putting the proposed ballot proposition on the ballot, a proposition which it termed a "referendum." The Chamber

[33]Quoted in CREA Vows New Fight on Housing Act," *Los Angeles Times*, December 4, 1963.
[34]"Fair Housing Act and the GOP," *San Francisco Examiner*, January 4, 1964.
[35]"Jordan Backs Fair Housing Repeal Bid," *San Francisco Examiner*, January 6, 1964; On Rafferty, see Daryl E. Lembke, "State Education Board Against Rumford Repeal," *Los Angeles Times*, January 11, 1964. "There Will Be Trouble – Rafferty," *San Francisco Examiner*, May 1, 1964. Rafferty was an extreme conservative who got his political start with a speech denouncing "*youngsters growing up to become booted, side-burned, ducktailed, unwashed, leatherjacketed slobs, whose favorite sport is ravaging little girls and stomping polio victims to death*." He unseated liberal Republican U.S. Senator Thomas Kuchel for the GOP nomination for the Senate in 1968, losing to Democrat Alan Cranston in the general election. See Les Ledbetter, "Max L. Rafferty, 65, Conservative Who Ran California Schools, Dies," *New York Times*, June 14, 1982.
[36]Quotes from Paul Weeks, "Speakers Clash on Housing Act," *Los Angeles Times*, December 8, 1963.

stated it was "*not passing on the merits of the Rumford Act, but rather "referring the matter to all [voters] by a referendum*."[37] (Underline added)

This confusion was also fed by news accounts which repeatedly described the proposed ballot measure as an "*initiative to nullify the Rumford Fair Housing Act*" or some variation thereof, as if the measure did not go far beyond voiding one particular law.[38] Even opponents of the CREA initiative fell into the trap of referring to the measure as a repeal of the Rumford Act.[39] At one point, Lieutenant Governor Glenn Anderson wrote to newspaper publishers asking them to inform readers that the initiative was more than a referendum on Rumford.[40] There were, of course, some exceptions to misleading or incomplete news reports. The *San Francisco Examiner* compared the Rumford Act to the initiative and highlighted the difference between a referendum and a constitutional ban. Readers, however, would have had to turn to page 30 of the newspaper to find the comparison.[41]

Unsuccessful Challenges

Finally, in the interim period between filing the initiative and submitting the requisite number of signatures, there were attempts to stop the process. There was, for example, an early attempt to obtain an injunction to block the signature-gathering effort.[42] However, courts in California are reluctant to interfere with the initiative process, particularly because ballot propositions often are eventually rejected by voters. Why create controversy by passing judgment on a proposition that might never get enough signatures to be placed on the ballot? Even if it got on the ballot, why create controversy by passing judgment on a proposition that might be rejected by voters. So, this attempt – and others – to stop the process through litigation failed.

And there were meetings reported between real estate groups and civil rights groups, possibly efforts to work out some kind of compromise.[43] In the hope of persuading CREA that the FEPC would be fair in its decision making, Governor Brown appointed a former CREA president to one of two vacancies on the FEPC.[44] Brown said that the fact that there was a realtor on the FEPC proved that "*not all realtors agree with the CREA that we should have legalized bigotry in this state*."[45]

The chair of the FEPC, Carmen Warschaw, complained that proponents of the initiative were spreading misinformation about the Rumford Act. She cited as an example a letter sent to tenants of a large apartment complex saying that "*if a prostitute came to your door and wanted to rent from you, you could turn her down because she is a prostitute, but not if she were a Negro prostitute*."[46] Protesters supporting the Rumford Act by picketing a CREA meeting in San Diego were met by American Nazi

[37]Quote from "C of C Asks Housing Vote," *Los Angeles Times*, December 11, 1963.
[38]Quote from Jack Birkinshaw, "Task Force Appointed on Housing," *Los Angeles Times*, December 12, 1963.
[39]A newspaper ad by opponents called on "*men of goodwill to oppose the initiative repeal of the Rumford Fair Housing Act*." The ad appeared in the *San Francisco Examiner* of January 7, 1964, p. 7.
[40]"A Warning," *Los Angeles Sentinel*, April 9, 1964.
[41]"The Fair Housing Issue," *San Francisco Examiner*, January 26, 1964.
[42]"NAACP Asks Writ to Stop Initiative," *Los Angeles Times*, December 14, 1963.
[43]"Realtors Host Discussion of Housing Issues," *Los Angeles Times*, December 18, 1963.
[44]"2 New Members for FEPC," *San Francisco Examiner*, January 1, 1964.
[45]Quote in "Brown Names Two to FEPC," *Los Angeles Times*, January 1, 1964.
[46]Quoted in Harry Johanesen, "Backers of Initiative Hit," *San Francisco Examiner*, January 15, 1964.

groups "*carrying anti-Negro and anti-Semitic placards*."[47] Thus, fears by opponents of the initiative that the resulting campaign would be dirty and divisive were already being realized.

Early Public Opinion

At that San Diego meeting, CREA representatives voted down internal opponents of the initiative campaign and vowed to continue the signature drive. And by the latter part of January, CREA claimed to have sufficient signatures to put its initiative on the ballot. However, even if the initiative got on the ballot, early data from the California Field Poll – shown below – suggested public opinion early on was evenly divided concerning what would later become numbered as Prop 14.[48]

Voter Opinion on Prop 14: January 1964

Would Vote Yes	**41%**
Would Vote No	**40%**
Undecided/ Qualified	**19%**

In short, it was not obvious from the poll what the outcome would be after a full-fledged election campaign. FEPC officials through statements and hearings sought to portray the Rumford Act as working successfully. Major Democrats, such as state controller Alan Cranston, argued that the reasonable approach would be to give the Rumford Act a trial period to operate before evaluating it.[49] They argued, unsuccessfully, that it was too early to put the matter before voters.

Petition Success

CREA initially turned in 650,000 signatures and eventually more than 700,000, a sufficient margin over the requirement to account for invalid signatures. Attorney General Mosk announced that individuals who had signed the petition but wanted to remove their signatures would have an opportunity to do so. But CREA went on collecting still more signatures.

The *Los Angeles Times*, on the assumption that there were already sufficient signatures to put the initiative on the ballot endorsed it, although with the criticism that the initiative should have allowed the banning of discrimination in housing subsidized by public funds.[50] In a response to the *Times*' editorial, Attorney General Mosk noted the newspaper's own complaint about the public-funding deficiency in the initiative. And he pointed to a U.S. Supreme Court decision that included language declaring that property rights were not absolute.[51]

The Campaign Begins

Both sides in the coming fight began to organize. Governor Brown called the apparent ballot qualification of the initiative "*a bad day for California*."[52] Brown warned that enactment of the initiative

[47]"Pickets March To 'Save Fair Housing,'" *Los Angeles Sentinel*, January 16, 1964.
[48]Mervyn D. Field, "Proposition 14 Still Favored by Voters," *Los Angeles Times*, September 23, 1964.
[49]"Cranston Sees Moral Crisis in Rumford Fight," *Los Angeles Times*, January 27, 1963.
[50]"Decision on Housing Initiative," *Los Angeles Times*, February 2, 1964.
[51]"Atty. Gen. Mosk," *Los Angeles Times*, February 15, 1964.
[52]Quoted in "The Day in Sacramento," *Los Angeles Times*, February 6, 1964.

"*could touch off a whirlwind of demonstrations and violence which this state has never before witnessed*."[53] His warning was prescient; as noted earlier, the official inquiry into the 1965 Watts Riot found enactment of Prop 14 to be a factor in the disturbance.

A second lawsuit seeking to halt the initiative process, this one by the California Democratic Council (CDC), failed. Martin Luther King, Jr. spoke to the (Black) Consolidated Realty Board and described the initiative as "*one of the most shameful developments in our nation's history*." If it passed, he said, "*the nation would be set back, civil rights would be set back and the cause of democracy in the country would be set back. Every citizen must rise up and save it.*"[54] Attorney General Mosk warned that federal funding of state urban renewal projects would be in jeopardy if the initiative succeeded.[55] The federal government would not subsidize construction of discriminatory housing in California.

Any doubt that sufficient signatures had been gathered were erased in late February when Secretary of State Jordan announced the measure had qualified. Governor Brown said he thought the initiative was unconstitutional. But his choice at that point was whether to put the measure on the June (primary) ballot or the November ballot (general election).

At the presidential level, Johnson had a lock on support as the Democratic nominee while Republicans would be choosing between Goldwater and Rockefeller. Primary voters would thus lean Republican and be more likely to support the initiative. Thus, it is not surprising that November was preferred by Brown over June. At one point, however, Republicans in the legislature threatened to hold up passage of the state budget to get the CREA initiative on the June ballot.[56] But in the end, Brown maneuvered the timing of Prop 14's appearance on the ballot to his desired November.

The Campaign Accelerates

With the initiative on the ballot, CREA asked its members for a down payment on the campaign of $100,000 (over $900,000 adjusted for inflation in 2022 dollars).[57] Governor Brown formed a large committee composed of religious leaders, executives, and political leaders for his opposing campaign.[58] And if there was any doubt that the campaign for and against the initiative would be divisive, that doubt was quickly removed. The Burbank Ministerial Association, for example, terminated its president who had been delivering radio broadcasts and distributing pamphlets entitled "*The Rumford Act, Communist*

[53]Quoted in "Brown Fears Violence in Rumford Act Repeal," *Los Angeles Times*, February 14, 1964.
[54]"Dr. King Blasts Move to Repeal Rumford Act," *Los Angeles Times*, February 17, 1964.
[55]"U.S. View Rumford Act," *San Francisco Examiner*, February 17, 1964.
[56]"Initiative on Housing Qualifies for Ballot," *Los Angeles Times*, February 26, 1964. The issue was complicated by the fact that there were bond measures Brown favored awaiting assignment to the ballot, too. If Brown put the bonds on the June ballot, he would also have to put the CREA initiative on the same ballot. The Republican hold-up on the budget was ostensibly over the bond measures but the initiative was the real issue. See Robert M. Blanchard, "Special Session Might Fail to Adopt Budget," *Los Angeles Times*, March 19, 1964. Brown's position on delaying the bonds put him in opposition to the California Teachers Association which wanted school bonds to be voted on in June. "Demos Win First Bond Skirmish," *San Francisco Examiner*, March 27, 1964.
[57]"$100,000 Asked of Realtors for Housing Fight," *Los Angeles Times*, March 22, 1964.
[58]Robert M. Blanchard, "Group Named to Head Fight for Rumford," *Los Angeles Times*, March 28, 1964.

or Christian Inspired?"[59] (He thought the answer was the former.) The San Francisco school board voted 4-3 to remain neutral about the initiative.[60]

Protests and Demonstrations

The initiative also became entangled with other civil rights efforts. CORE, protesting discriminatory hiring practices at a supermarket chain in the Bay Area, engaged in a "shop-in" in which activists would scramble items from one store shelf to another. But the protesters came under pressure to halt the shop-in because it might anger Whites who would then vote for the initiative. Another sit-in over hiring at a San Francisco hotel produced similar pressures and tensions. Governor Brown complained that the effect of the demonstrations on his campaign against the CREA initiative would be "*bad*."[61]

News accounts accused the demonstrators of being radical Marxists, communists, Maoists, Trotskyites, who "*stand ready to demonstrate against almost anything, anywhere, anytime*," with the implication that they were using the civil rights movement for larger purposes.[62] A member of the state Assembly argued that "*if the initiative wins, it presages the end of moderate Negro leadership. Many radical leaders – Negro as well as white – want to see the initiative pass, for then they will be able to seize control*" of the civil rights movement.[63]

Voter Sentiment

The Los Angeles City Council had endorsed the Rumford Act. But an effort by two African American city council members to revoke registration certificates of real estate agents who discriminated failed.[64] It was originally politically costless to endorse a piece of legislation. But with a growing campaign now in progress for the initiative attracting public attention, apparently a majority of the Council was not anxious to touch the issue. Indeed, the California Field Poll for March 1964 (below) suggested that with the campaign getting underway, voter sentiment was tilting in favor of the initiative that would become labeled as Proposition 14:[65]

[59]"Charges Fly in Ouster of Unit Leader," *Los Angeles Times,* March 1, 1964. The radio broadcast is advertised in the February 29, 1964 edition.
[60]"School Board Neutral on Rumford Bill," *San Francisco Examiner*, March 4, 1964.
[61]"Brown Deplores Sit-in Effect on Rumford Act," *Los Angeles Times*, March 11, 1964. Apart from the supermarkets and hotel, a Cadillac dealership was also the site of protests. Eventually, the mayor of San Francisco worked out a deal with protesters that the demonstrations would cease while negotiations were held to deal with their issues.
[62]Ed Montgomery, "Who Is Running Rights Sit-Ins? How Many Are Radical?," *San Francisco Examiner*, March 14, 1964.
[63]Quoted in "Housing Law's Foes Winning, Crown Claims," *Los Angeles Times*, April 4, 1964.
[64]"Mills, Lindsay Seek to Curb Biased Licenses," *Los Angeles Sentinel*, March 5, 1964.
[65]Mervyn D. Field, "Proposition 14 Still Favored by Voters," *Los Angeles Times*, September 23, 1964.

Voter Opinion on Prop 14 (1964)

	March	January
Would Vote Yes	48%	41%
Would Vote No	33%	40%
Qualified/ No opinion	19%	19%

Republican Secretary of State Jordan argued that Governor Brown, in speaking against the initiative was somehow violating his oath of office. Attorney General Mosk, who opposed the initiative, ruled that Brown had a right to speak out on the issue.[66] Mosk and Jordan feuded over Mosk's preparation of the ballot title of the initiative, although Mosk pointed out he had prepared the title within the statutory timeframe.[67]

The Campaign for President

Presidential politics became involved in the Rumford/Prop 14 controversy. Rockefeller, campaigning in California for the Republican nomination, was quoted as saying he would get together with (liberal-moderate) Republican Senator Thomas Kuchel and come up with a strategy for opposing the initiative.[68] Goldwater did not directly endorse the initiative or take a position on it. But he did criticize the sit-ins in San Francisco.[69] With Rockefeller identified with the opposition to the initiative, Goldwater didn't have to say anything directly to be the more attractive candidate to those Republicans who favored Prop 14. In the upcoming presidential primary, the Rumford/Prop 14 issue reinforced the split between liberal-moderate Rockefeller and conservative Goldwater. And in the end, Goldwater narrowly won the California primary, all but assuring him of the Republican nomination.

Other Election Contests

By the spring of 1964, the campaign for and against the initiative began to dominate the primary election cycle for offices other than the presidency. News accounts report meetings, debates, and demonstrations related to the CREA initiative. As a candidate for any public office in California, you were likely to be asked whether you supported or opposed the initiative. If you were already in office, you would also be asked to take a position.

For example, the Los Angeles Board of Education debated whether to take a position opposing the initiative, although the Board ostensibly had no direct connection with housing. Those members of the Board favoring official opposition to the initiative could not obtain a majority. The reluctance of the majority may have reflected a perception as to where voters were on the issue. The May California Field Poll still suggested that more voters were leaning towards supporting the initiative than opposing it.[70]

---

[66]"Brown's 'Right to Speak' Defended," *San Francisco Examiner*, March 7, 1963.
[67]"Mosk, Jordan in Dispute Over Housing Initiative," *Los Angeles Times*, March 10, 1964.
[68]Richard Bergholz, "4000 Brave Rain to Greet Rockefeller in Southland," *Los Angeles Times*, March 13, 1964.
[69]"Barry Here, Recalls Boxing Rumford," *San Francisco Examiner*, March 31, 1964. As noted earlier, it appears that despite the headline, Goldwater was mistaken and that he never boxed with Rumford.
[70]Mervyn D. Field, "Proposition 14 Still Favored by Voters," *Los Angeles Times*, September 23, 1964.

Voter Opinion on Prop 14 (1964)

	May	March	January
Would Vote Yes	48%	48%	41%
Would Vote No	32%	33%	40%
Qualified/ No opinion	20%	19%	19%

The June 1964 primary race for U.S. Senate especially reflected the Rumford/Prop 14 issue. Incumbent Democratic Senator Clair Engle was dying of a brain tumor. Although Engle did not resign, he dropped his campaign for reelection, thus opening the seat for other Democrats. State controller Alan Cranston and a former Kennedy administration aide – Pierre Salinger – vied for the Democratic nomination and competed in part over who was most in favor of fair housing. At one point, Salinger accused Cranston of "*smear tactics*," saying Cranston had spread false rumors that he (Salinger) had opposed the Rumford Act.[71] Ultimately, Salinger won the primary.

More Protests and Demonstrations

There continued to be sit-ins and other demonstrations related to Rumford/Prop 14, especially by CORE, and in some cases there were trials of those arrested. The issue of aggressive tactics exacerbated the tension between older Black institutions, such as the NAACP, and the newer CORE. There was fear among the older groups that a White backlash in response to the demonstrations would develop and increase the initiative's election prospects. Martin Luther King, Jr. commenting on the issue, warned that if Prop 14 were passed by voters, it would "*be much more difficult to keep the (civil rights) movement nonviolent*."[72]

Meanwhile, not long after the California primary, at the national level the U.S. Senate broke a southern filibuster and passed the Civil Rights Act of 1964 pushed by President Johnson.[73] Thus, the Democrats were increasingly being seen as the party of civil rights legislation, even though many Republicans at the time supported the new law. Republican presidential candidate Goldwater – and soon to be the GOP's official nominee – voted against the Civil Rights Act in the Senate, saying it was unconstitutional.

Summertime

The post-primary period initially united the national and state controversies over civil rights. San Francisco was host to the Republican national convention that nominated Goldwater. The Democrats' strategy in the 1964 election was to associate Goldwater with "extremism," including linking him with such groups as the John Birch Society (which had a considerable presence in California). Birchers in turn tended to be attracted to conspiracy theories of the time, generally seeing the federal government as deliberately acquiescing to communism. This tendency included a view that (Republican) President

[71]Quoted in Paul Beck, "Cranston Using 'Smear Tactics," *Los Angeles Times*, May 26, 1964.
[72]Quoted in "If Rumford Is Ousted…," *San Francisco Examiner*, May 30, 1964.
[73]Excerpts from President Johnson's remarks on signing the Civil Rights Act can be heard at https://www.youtube.com/watch?v=6aMas_yXmzI.

Eisenhower had been a Soviet agent. Notable Republicans in California, such as Congressman John Rousselot from southern California, were members of the Society or drew support from it.

Extremism and the Cold War

Goldwater delivered an acceptance speech at the convention with the notable line "*extremism in defense of liberty is no vice; moderation in pursuit of justice is no virtue*," a soundbite that reinforced the extremist image of him that the Democrats had promoted. Thus, although President Johnson had supported and signed the Civil Rights Act of 1964, and although the Rumford/Prop 14 issue was raging in California, and although voters were likely to associate the support for fair housing with Democrats, there was a more complicated set of issues to consider at the presidential level. These issues were related to the Cold War and the nuclear threat posed by that conflict.

Would you want an extremist as president with his finger on the nuclear button or a more normal political figure? That was the question the Johnson campaign against Goldwater wanted voters to consider. That election strategy was encapsulated in the famous one-minute "Daisy" TV ad for Johnson. The ad starts off with a little girl counting the petals of a daisy. Her counting shifts to an adult male voice doing a countdown of a missile launch. Then viewers see a nuclear explosion. President Johnson's voice comes on saying essentially that the stakes in the election are life and death. No mention of Goldwater is made. But the implication is clear: a vote for Goldwater would risk nuclear war.[74] The ad aired only once but created a major stir – which was the intended result. So, although the racial issue was certainly present in the 1964 presidential election – which in California meant Rumford/Prop 14 – the overriding issue for voters became survival and avoiding a nuclear war, not rules about property transactions.

Other Propositions

At the state level, there were also issues and candidates beyond Rumford/Prop 14. In fact, there were seventeen ballot propositions on the November 3, 1964 ballot. Some of these propositions involved technical issues of governance. But among seventeen was a ban on "pay TV" promoted by movie theater owners (which eventually passed with two thirds of the vote but was found to be unconstitutional subsequently),[75] and a ban on state laws said to require "featherbedding" on railroads (which passed with 87 percent of the vote).[76] In addition, there was a proposition that allowed public pensions to invest in stocks. Interestingly enough, Assemblymember Rumford signed the official argument against that proposition, arguing that stocks were too risky for pension funds. His argument prevailed, and the pension proposition was rejected by voters.[77] So, too, was a proposition creating a

[74]The TV ad can be seen at https://www.youtube.com/watch?v=U4QVXcPDgjI. The Johnson quote is "*These are the stakes! To make a world in which all of God's children can live, or to go into the dark. We must either love each other, or we must die*."

[75]Contemporary readers, living in a period in which all kinds of paid TV subscriptions are routine, may find this proposition odd. For an ad favoring the ban on pay TV, see https://www.youtube.com/watch?v=eeEmjmAXVig. Early pay TV typically involved broadcasting a scrambled signal. Subscribers acquired a converter that unscrambled the signal and allowed the program to be seen on a conventional TV set.

[76]Coal-burning locomotives required an engineer to drive the train and a fireman to shovel coal into the boiler. When such locomotives were replaced by diesel and electric locomotives, railroads sought to eliminate the fireman position. Some states, however, had "full crew laws," supported by rail unions, which mandated retaining the fireman position on safety grounds. Railroads therefore pushed for elimination of such state laws.

[77]Fifty-eight percent of voters followed Rumford's advice and rejected the proposition – Prop 7. The limit on stocks in public pensions was later removed, notably by Prop 21 of 1984.

state lottery.[78] However, despite the large number of propositions in November 1964, the one that increasingly drew public attention and controversy was Prop 14.

Death of a Senator

California Senator Engle died in July, and Governor Brown appointed Pierre Salinger – the Democrat's candidate for his seat – to fill out Engle's term. There was some controversy over whether Salinger had been a California resident long enough to be appointed, but ultimately the appointment took place. The thought was that Salinger would have an advantage as the incumbent against Republican George Murphy. Salinger supported the Rumford Act and opposed Prop 14. Murphy, however, refused to say what his position was. He said taking a position would make Prop 14 a "*partisan issue*."

Murphy accused Salinger of attempting to "*badger*" him into expressing an opinion. He also argued that *not* taking a stance on Prop 14 *was* his stance.[79] Despite Murphy's lack of a public position, a voter who supported Prop 14 might well lean towards Murphy over Salinger. Salinger not only opposed Prop 14, but also acknowledged that his opposition might well be costing him votes.[80]

Reportedly, there was a difference of opinion between Governor Brown and Assembly Speaker Unruh about giving Salinger the interim appointment. Unruh said after Election Day that he wanted Brown to appoint Assemblymember Rumford to the U.S. Senate position for the few months remaining in Engle's term. Doing so, he argued, would somehow aid the campaign against Prop 14.[81] Presumably, he thought such an appointment would increase Black turnout, even though Rumford would not be on the ballot.

It was unclear why Rumford would have accepted such an arrangement, even if the interim position had been offered by Brown. Rumford would have served in the U.S. Senate for only a few months and then been out of office in January – and out of the State Assembly. There is some reason to believe that Unruh – seeing how voters were leaning on Prop 14 – saw Rumford as a potential albatross for Democrats in the Assembly because of the association of his name with the Rumford Act.[82]

Split Views

Although, as noted, mainline Protestant and Jewish groups generally opposed Prop 14, religious institutions in some cases were split by the Rumford/Prop 14 issue. In Los Angeles, Roman Catholic Cardinal McIntyre transferred a priest who had been outspoken in opposition to Prop 14 from a Black parish to a reportedly all-White parish. The priest was told not to discuss racial issues. The Cardinal released a statement saying the official LA Archdiocese policy was to avoid discussing "*political matters,*" such as Rumford/Prop 14, and "*to leave the decision to the individual conscience*."[83]

---

[78]Voters in the 1980s, however, later approved a state lottery.
[79]Richard Bergholz, "Murphy Raps Allotment of Defense Work," *Los Angeles Times*, October 22, 1964.
[80]On the Murphy candidacy, see Richard T. Longoria, "George Murphy: Celebrity Politician," *Southern California Quarterly*, Summer 2022, vol. 104, no. 2, pp. 201-227. See also Richard Bergholz, "Salinger Calls for Defeat of Proposition 14," *Los Angeles Times*, September 20, 1964; "Won't Be Badgered on Prop. 14, Murphy Says," *Los Angeles Times*, October 7, 1964.
[81]"Unruh Wanted Rumford as Interim Senator," *Los Angeles Times*, November 8, 1964.
[82]When Rumford lost his later bid for the State Senate – and thus also his Assembly seat – he reported that Unruh was unseemly in his rush to see Rumford clear out of his office. See Crouchett, p. 85.
[83]Quoted in "Father DuBay Transferred to All-White Parish," *Los Angeles Sentinel*, July 30, 1964.

The tendency in news reports and public forums at the time was to focus on Rumford/Prop 14 as a purely Black/White issue, leaving out Mexican Americans. As noted earlier, the demographics of the state in the 1960s were quite different from the diversity of contemporary California. In Los Angeles, the Mexican Chamber of Commerce announced support for Prop 14 and opposition to the Rumford Act. Shortly afterwards, however, the president of the group threatened to fire the organization's director for making public its internal position.[84] And a few days later, the organization formally changed its position from supporting Prop 14 to neutrality.[85] In doing so, it shifted to the stance of the statewide general Chamber of Commerce which took no position on Prop 14.[86] On the other hand, a group of Mexican-American real estate agents formed a group to oppose Prop 14.[87]

The Campaign Heads Toward Election Day

As the fall campaign season began, word came from Detroit, Michigan that a Prop 14-like ordinance was enacted by voters there, a bad omen for opponents of Prop 14 in California. In Michigan, as in California, courts had refused to block the ordinance from being placed on the ballot, indicating that its constitutionality could be tested later, if passed.[88] Of course, California already had the example of the City of Berkeley and its voter rejection of a fair housing ordinance passed by that city's city council. The Field Poll was still suggesting stronger support than opposition for Prop 14, although the race seemed to be tightening.[89]

Voter Opinion on Prop 14 (1964)

	September	May	March	January
Would Vote Yes	47%	48%	48%	41%
Would Vote No	37%	32%	33%	40%
Qualified/ No opinion	16%	20%	19%	19%

Some Republicans on the right – represented by the California Republican Assembly (CRA) – began to become nervous over rhetoric from their organization's president that seemed overly blunt. The president, Nolan Frizzelle, had stated that CRA was supporting Prop 14 because "*people have a right to discriminate*" and because the "*freedom to be inequal is really our national purpose*." But for their criticism of Frizzelle, the dissidents were censured.[90] Outside the CRA, however, a number of prominent

[84]"Latin Chamber Favors Repeal of Rumford Act," *Los Angeles Times*, August 13, 1964; Ruben Salazar, "Head of Mexican C of C Seeks to Oust Director," *Los Angeles Times*, August 14, 1964.
[85]"Latin C of C Changes Rumford Act Stand," *Los Angeles Times*, August 19, 1964.
[86]"State Chamber Acts on Issues," *San Francisco Examiner*, September 14, 1964.
[87]"Anti-Prop 14 Group Formed in East L.A.," *Los Angeles Times*, September 21, 1964.
[88]"Three Cities Turn Down 'Open Housing' Ordinances," *Los Angeles Times*, September 20, 1964.
[89]Mervyn D. Field, "Proposition 14 Still Favored by Voters," *Los Angeles Times*, September 23, 1964.
[90]"6 CRA Officials Claim Criticism Caused Rebuke," *Los Angeles Times*, September 24, 1964.

Republicans – notably California's Republican Senator Thomas Kuchel - opposed Prop 14 and declared it to be "*contrary to the historic principles*" of the Party.[91]

Statewide Democratic officials were united in opposition to Prop 14. Included in the opposition was Milton Gordon, the state's Real Estate Commissioner, a gubernatorial appointee. The California State Bar, after considerable debate, also opposed Prop 14. CREA claimed in response that the Bar had acted illegally in taking a position and that because lawyers must belong to the Bar, they could not protest the Bar's stance.[92]

Debates and Promotions

The flow of debates on Rumford/Prop 14 continued. As the election neared, movie stars and celebrities rallied at the Hollywood Bowl to oppose Prop 14. Included were such celebrities of the period as Elizabeth Taylor, Richard Burton, Gregory Peck, Nat King Cole, and others. Over 10,000 people attended the Bowl event and over $100,000 was raised (over $900,000 in 2022 dollars).[93] The state League of Women Voters also opposed Prop 14. Los Angeles Mayor Sam Yorty greeted a group of ministers at City Hall who opposed Prop 14 and noted that he, too, was opposed to Prop 14.[94]

Apart from demonstrations and statements by celebrities, any device that might attract publicity and support was used. For example, supporters of Prop 14 chartered a "Constitutional Express" train to travel through various cities as a fundraising endeavor.[95] New arguments were invented. Supporters of the proposition noted that individuals accused of discriminating by the FEPC wouldn't have a jury trial to adjudicate their cases.[96] It was also argued by proponents of Prop 14 that a slowdown in housing construction had been caused by the Rumford Act, a claim later rebutted by a construction industry spokesperson.[97]

With only a few weeks to go before Election Day, the *Los Angeles Times* reiterated its editorial support for Proposition 14. The *Times* responded to criticism that Prop 14 would bar any new anti-discrimination legislation by noting that there could be such legislation in the future, although only voters could enact it via constitutional amendment.[98] The legislature could have no further say; only voters would be in charge. This theme was picked up in ads by proponents of Prop 14; nothing was barred in the future as long as voters approved it.[99] As to the argument that the proposition was unconstitutional, that matter could be left to the courts to decide at some later date from the *Times*' point of view.

---

[91]"Statewide GOP Group to Battle Prop. 14," *Los Angeles Times*, October 7, 1964; "Kuchel Hits Prop. 14 as 'Long Step Backward,'" *Los Angeles Times*, October 25, 1964.
[92]"Realty Man Questions Legality of Action," *Los Angeles Times*, October 1, 1964.
[93]"Stars to Stage Anti-Prop. 14 Show at Bowl," *Los Angeles Times*, October 4, 1964; "10,000 Attend Anti-Prop. 14 Show at Bowl," *Los Angeles Times*, October 5, 1964.
[94]"300 Ministers Stage Anti-Prop. 14 March," *Los Angeles Times*, October 9, 1964.
[95]"Chartered Train Will Aid Prop. 14," *Los Angeles Times*, October 14, 1964.
[96]"No Jury Trial in Rumford Act, "*San Francisco Examiner*, October 14, 1964.
[97]"Ex-Contractor Chief Assails Proposition 14," *Los Angeles Times*, October 15, 1964.
[98]"Why Prop. 14 Deserves a YES Vote," *Los Angeles Times*, October 18, 1964.
[99]See the ad on page 13 of the *San Francisco Examiner* for October 23, 1964. The reader is challenged to "prove" that - through constitutional amendment – Prop 14 couldn't be changed. The ad appeared in other editions and newspapers.

Voter Opinion as Election Day Approached

The final October Field Poll before the election suggested Prop. 14 was very likely to pass. According to the poll, virtually all the undecided voters would have to vote against the proposition for it to be defeated.[100] By late October, Governor Brown had conceded that Prop 14 would probably win – which would mean that a lot of Democrats would be voting for it. Martin Luther King, Jr. pushed for Black voters to turn out against Prop 14. But he said that if Prop 14 passed, there would be a mobilization of "*civil rights forces… to work through demonstrations, legislation, and other means to bring into being a new fair housing law*."[101]

Voter Opinion on Prop 14 (1964)

	October	September	May	March	January
Would Vote Yes	49%	47%	48%	48%	41%
Would Vote No	34%	37%	32%	33%	40%
Qualified/ No opinion	17%	16%	20%	19%	19%

Given the tide that seemed to favor Prop 14, the LA County Board of Supervisors came up with a straddle strategy. While refusing to take a stance of Prop 14, they instead endorsed the Rumford Act.[102] Of course, if Prop 14 passed, the Rumford Act would be nullified. So, their action made no logical sense. But apparently it made political sense.

The Election and Beyond

In the end, Proposition 14 passed with 65 percent of the vote, a substantial margin for a controversial ballot proposition. Its passage led to litigation over the constitutionality of the new measure. Less than three years later, the U.S. Supreme Court ruled Prop 14 unconstitutional, and the Rumford Act was back in effect. Yet there is a puzzle that remains from this episode in California's political history.

Right and Left Together

One might characterize the vote for Prop 14 as a shift in the California electorate to the right. Yet, at the presidential level, Democrat Lyndon Johnson got 59 percent of the vote, handily defeating Republican Barry Goldwater. Johnson's California victory was a reversal of the outcome of the 1952, 1956, and 1960 presidential elections when the Republican candidate won. At the presidential level, California seemed to shift toward the left in 1964, while Prop 14's vote suggests the opposite. To confuse matters further, at the U.S. Senate level Republican George Murphy – who refused to take a position on Prop 14 – won over Democrat Pierre Salinger who opposed it. What do we make of this seeming left-right behavior?

As suggested earlier, what appears to have occurred was the successful branding of Goldwater as an extremist. In the context of the Cold War and of the related nuclear threat, even if a voter leaned towards Goldwater's position on civil rights legislation – opposition to the Civil Rights Act of 1964 – and disagreed with Johnson's, having Goldwater in charge of U.S. foreign policy seemed risky. (The Vietnam

[100]Mervyn D. Field, "49 Pct. Of Voters Now Favor Prop. 14," *Los Angeles Times*, October 16, 1964.
[101]Quoted in Paul Weeks, "Dr. King Sees Tragedy if Prop. 14 Is Approved," *Los Angeles Times*, October 28, 1964.
[102]"Supervisors Duck Stand on Prop. 14," *Los Angeles Times*, October 29, 1964.

War and America's role in it was limited in 1964, although it eventually brought down Johnson in 1968.) Worries about a potential World War III may well have overridden voter sentiments about civil rights and the Rumford/Prop 14 issue. But when it came to voting for a candidate for the U.S. Senate, the politics were more at the state level. George Murphy as a senator – unlike a hypothetical President Goldwater – would not have a nuclear arsenal at his disposal.

There has been some analysis of the Field voter polling data on Prop 14. Political scientists Wolfinger and Greenstein concluded that the outcome was not a product of voter confusion about what a "yes" vote for Prop 14 meant.[103] There was so much publicity and debate over Prop 14 before the election that voters intending to support fair housing were not misled into voting yes. Wolfinger and Greenstein noted that legislators who voted for the Rumford Act did not appear to suffer at the polls in 1964. But clearly Senator Salinger – who ran statewide rather than within 120 legislative districts where all politics are local – *did* suffer at the polls. The next time Governor Brown – a big supporter of the Rumford Act and a major opponent of Prop 14 – ran for election, he suffered at the polls and lost his governorship to Ronald Reagan in 1966.

Hindsight

With hindsight – which Wolfinger and Greenstein, writing in 1968 didn't have – we know that California kept voting Republican in presidential contests until 1992. The 1964 vote for a Democrat for president was an aberration caused by Goldwater's image as an extremist. We know that as far as racial matters were involved, the controversy over busing for public school integration roiled the California political scene, particularly in the LA area, in the 1970s.[104]

In effect, the racial rhetoric in California moved on from "forced" housing to "forced" busing. We know that as White flight from the public schools occurred, so, too, did resentment over rising local property taxes, much of which supported the public schools. We know that the taxpayer revolt, which produced California's Proposition 13 in 1978 cutting property taxes, was partly a byproduct of that resentment.

In short, the Rumford/Prop 14 controversy of 1964 was a symptom of a shift in California politics that had reverberations for decades thereafter. For example, consider the gubernatorial election of 1966, noted above, in which Governor Brown lost to Reagan. Brown's connection to the Rumford Act and his opposition to Prop 14 were not the only issue in his defeat. Among other issues was the Watts Riot of 1965, which – as mentioned earlier – was linked to the earlier Rumford/Prop 14 controversy by the official McCone Commission.

Still, had Brown not pushed for passage of the Rumford Act, Speaker Unruh would not have pushed it through. Probably, there would then have been no Prop 14 in November 1964, although – as noted – CREA might have tried to put something on the ballot at some point even without Rumford. But even if CREA did put something on some future ballot, without the Rumford Act as a foil, it might not have

---

[103]Raymond E. Wolfinger and Fred I. Greenstein, "The Repeal of Fair Housing in California: An Analysis of Referendum Voting," *American Political Science Review*, September 1968, vol. 57, no. 3, pp. 753-769. It might be noted that this paper analyzes Field Poll data. The figures shown match those of tables in this chapter from Field except for those for October 1964. The authors do not explain the difference between their figures and those presented by Mervyn Field as published in newspapers.

[104]See Governor Reagan on busing at https://www.youtube.com/watch?v=wra-krMEvlU. See also https://www.youtube.com/watch?v=TvJrNYiiuq0.

passed. CREA might have found it hard to persuade voters to vote for an initiative that banned something that didn't yet exist.

As it was, Brown ended up opposing what turned out to be a popular initiative in 1964. Taking that position didn't help him two years later in his reelection contest with Ronald Reagan. Had Brown defeated Reagan in 1966, the latter might never had made his way to the presidency.[105] All in all, California's Rumford/Prop 14 issue may well have been a controversy that went on to affect national, and even international, history thereafter.

Postscript

In 1965, California had to redraw district lines for the legislature, thanks to the U.S. Supreme Court's "one-man, one-vote" decision. There was some litigation over the newly-drawn districts but in the end Assemblymember Rumford decided to run for the state Senate in 1966. The available local district, however, required him to obtain the votes of a relatively conservative White constituency as well as some of his former constituents. Rumford's name had become forever tied to the Rumford Act. He narrowly lost that election, a result he attributed to election irregularities, and never quite accepted.

In 1968, Rumford entered an Assembly race in his old district and lost again. Rumford in some respects represented an older, "moderate" type of Black politician in a period of increasing polarization over the Vietnam War and civil rights. In his oral history, Rumford attributed his loss in part to Berkeley "radicals" who assumed he was a reactionary because he was a businessman.[106]

Republican Caspar Weinberger knew Rumford from their days in the state Assembly. As noted earlier, Weinberger was one of the California Republicans who opposed Prop 14. Weinberger became Secretary of Health, Education, and Welfare in the Nixon administration. In 1970, he invited Rumford to take a position at the Federal Trade Commission (FTC). Rumford accepted Weinberger's invitation and served until 1976. After leaving the FTC, he retired from politics and government and returned to his Berkeley pharmacy. Rumford died in 1986.

Today, near the location of the Rumford drugstore (the store is long since gone), there is a statue in Rumford's honor. A Bay Area freeway segment, a post office, and a housing development carry his name.[107] On the fortieth anniversary of the Rumford Act in 2003, the California state Assembly passed

---

[105]As governor, Reagan at one point called President Nixon and used racist language that was caught on tape. See Tim Naftali, "Ronald Reagan's Long-Hidden Racist Conversation With Richard Nixon," *Atlantic*, July 30, 2019. Available at https://www.theatlantic.com/ideas/archive/2019/07/ronald-reagans-racist-conversation-richard-nixon/595102/. But he avoided such language in public and, apparently, even within his family. See Patti Davis, "The Ronald Reagan who raised me would want forgiveness for his 'monkeys' remark," *Washington Post*, August 1, 2019. Available at https://www.washingtonpost.com/opinions/the-ronald-reagan-who-raised-me-would-want-forgiveness-for-his-monkeys-remark/2019/08/01/c3c2b66c-b40c-11e9-951e-de024209545d_story.html.

[106]Earl Warren Oral History Project, *Legislator for Fair Employment, Fair Housing, and Public Health: William Byron Rumford and Public Health: William Byron Rumford*. Available at https://oac.cdlib.org/ark:/13030/kt5h4nb0wd/?brand=oac4, p. 33. It might be noted that Rumford's son, William Byron Rumford, Jr., was elected to the Berkeley City Council as a moderate in a recall campaign against an activist council member.

[107]You can hear the ceremony dedicating the freeway segment at "William Byron Rumford freeway dedication ceremony," https://archive.org/details/caolaam_000157. Rumford himself speaks at about minute 22 of the second audio file of that link.

Assembly Concurrent Resolution No. 53 commemorating Rumford and his Fair Housing Act of 1963.[108] Still later, in 2019, the *New York Times* published a retroactive profile of Rumford as part of a series of "overlooked" obituaries of important people whose deaths had been unnoted in the *Times* when they occurred, but were finally being acknowledged.[109] Undoubtedly, the former California assemblymember would have enjoyed his belated state and national recognition.

[108]Available at https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=200320040ACR53.
[109]"Overlooked No More: William Byron Rumford, a Civil Rights Champion in California," *New York Times*, August 7, 2019. Available at https://www.nytimes.com/2019/08/07/obituaries/william-byron-rumford-overlooked.html.

Chapter 9

Round 2: Bradley Versus Yorty

Daniel J.B. Mitchell

Professor-Emeritus, UCLA Anderson School of Management
and UCLA Luskin School of Public Affairs

"*I am entering this race to win*."

Tom Bradley announcing his candidacy
in the 1973 mayoral election[1]

In past editions of *California Policy Options*, we have followed the electoral career of former Los Angeles Mayor Sam Yorty, the candidate who wasn't supposed to win in 1961 – but did, and who was supposed to win in 1965 – and did.[2] While his electoral style in 1961 was what today would be termed "populist," it lacked the element of racism that has gone with modern-day populism until Yorty's third campaign in 1969 against African American Tom Bradley. In that campaign, Bradley – who appeared likely to win – was defeated with charges by Yorty that he was a front for Black militants seeking to take over the city.

In this chapter, we look at what became a rematch between Yorty and Bradley in 1973. Of course, there is no suspense in this story; it is well known that Bradley won in Round 2. But going into that election, it was not even clear that the ultimate contest would be Yorty vs. Bradley. For the earlier contest to repeat, both men would have to come in as the top two candidates in the primary on April 3, 1973, and then face each other in the runoff on May 29th. However, there were other possible candidates that might have turned the 1973 race into Yorty versus someone else.

Again, there is no suspense with hindsight. But back in late 1972 when the race was just getting started, what would happen was not known or clear. In this chapter, we will look at what happened in that contest of a half century ago and see what lessons can be learned for contemporary politics.

Background Factors of 1973

"*At 12:30 Paris time today, January 23, 1973, the Agreement on Ending the War and Restoring Peace in Vietnam was initialed by Dr. Henry Kissinger on behalf of the United States, and Special Adviser Le Duc Tho on behalf of the Democratic Republic of Vietnam*."

President Nixon announcing the "ending" of the Vietnam War[3]

One of the forces that drives populism is a sense that the old (and better) order is failing or is being assaulted. In the 1969 campaign, LA was just four years from the 1965 Watts Riot, which occurred not long after the municipal election that year. In addition, there were the assassinations of Martin Luther King, Jr., and of Robert Kennedy in 1968, college student disturbances related to the Vietnam War and

[1]Quoted in "Unruh Ready to Enter L.A. Mayoral Race," *Los Angeles Times*, November 14, 1972. In what follows in this chapter, we rely heavily on the *LA Times* and other newspapers of the period. Direct citations will be used mainly for direct quotes.

[2]Daniel J.B. Mitchell, "The Trash-Talking Candidate Who Wasn't Supposed to Win" *California Policy Options 2018* (UCLA Luskin School of Public Affairs, 2018); "Before the Storm: Sam Yorty's Second Election as Mayor of Los Angeles," *California Policy Options 2021* (UCLA Luskin School of Public Affairs, 2021); "Round 1: Yorty Versus Bradley," *California Policy Options 2022* (UCLA Luskin School of Public Affairs, 2022). Available (respectively) at: https://archive.org/details/YortyCPO2018; https://archive.org/details/before-the-storm; https://archive.org/details/round-1.

[3]"Address to the Nation Announcing Conclusion of an Agreement on Ending the War and Restoring Peace in Vietnam." Available at https://www.nixonfoundation.org/2017/08/address-nation-announcing-conclusion-agreement-ending-war-restoring-peace-vietnam-january-23-1973/.

the draft, and cultural challenges such as hippies, drug use, feminism, etc., that accompanied the post-World War II baby boom into adulthood.

At the state level, voters had already responded to such developments by a move to the political right in 1966 with the election of Ronald Reagan as governor. At the national level, voters responded with a move to the right with the election of Richard Nixon as president in 1968. Viewed in that larger political ecosystem, perhaps the Bradley loss of 1969 can be seen as a byproduct of these broader trends.

Four years later, however, there was a somewhat different mood. There were no recent assassinations, and the Watts Riot was now eight years in the rear view mirror. With regard to the Vietnam War, after a U.S. bombing campaign, the Paris peace talks were underway. In January 1973, a deal at those talks was reached whereby American troops would withdraw over time. An end to the draft was announced. So, there was a lull in the Vietnam War, and reduced student agitation. That these developments would lead to the fall of Saigon in 1975 was not foreseen.

In addition, in 1973, the left-right political pendulum was beginning to swing back toward the left. The Nixon administration's Watergate scandal was beginning to be revealed in televised, and increasingly widely watched, congressional hearings as LA's municipal election season heated up. The trial of Daniel Ellsberg for turning over the Pentagon Papers to the *New York Times* in 1971 aborted when it was revealed that some of the Watergate defendants had burgled Ellsberg's psychiatrist's office. The year 1973 also saw California Governor Ronald Reagan's attempt to impose a spending cap on state government via a ballot proposition fail to be endorsed by voters.[4] A year later, Republican Reagan was replaced by Democrat Jerry Brown as governor.

While the decade of the 1970s was stormy by many measures, the first half of 1973 was something of a lull in the storm. In short, the law-and-order issue that worked for Yorty in 1969, when everything seemed to be going wrong, might not be the key concern in LA for the 1973 mayoral campaign. As we will see below, major candidates for mayor certainly perceived law and order to be critical. But like the old adage about generals fighting the last war, it turned out to be less of a decisive issue than campaign strategists predicted.

The Beginning of Election Season

Although 1973 saw the California political pendulum swinging to the left, 1972 was a very different year. President Nixon was re-elected in a landslide, including within the state. Nixon had shifted the geopolitical world balance by going to "Red" China. He had imposed wage-price controls to combat inflation. He has remade the world financial order by unilaterally changing the international monetary system. And no one at the time of the 1972 election was paying much attention to the Watergate burglary.

It might be noted that Mayor Yorty had attempted to run for president in the Democratic primaries in 1972 but had gotten nowhere and dropped out. Given the strong economy at the time and the public's general perception of Nixon's national and international endeavors, it's hard to imagine that a hypothetical Yorty candidacy in the general election would have fared better than that of the actual

[4]Daniel J.B. Mitchell, "Governor Reagan's Ballot Box Budgeting: One That Got Away," *Southern California Quarterly*, Summer 2007, Vol. 89, pp. 195-227. Available at: https://www.anderson.ucla.edu/documents/areas/fac/hrob/mitchell_ballot_box.pdf.

Democratic candidate, Senator George McGovern. In any case, as a former supporter of Nixon, it's also hard to understand why Yorty believed he had a chance in the Democratic contest.

At the municipal level in LA, there was a sense in some factions of the Democratic establishment that the 1969 Yorty-Bradley contest had demonstrated that the city was not ready for a Black mayor. Although Yorty hadn't said so, it was assumed that he would run for a fourth term. And it was assumed that whatever happened in the primary, Yorty would at least be one of the top two who would emerge for the runoff election. Those Democratic politicos who felt that way – a group that included much of local organized labor – figured that the best strategy would be to find a conventional, reliable "traditional" (read White) candidate to run against Yorty. The *LA Times*, which had favored Bradley in 1969, felt the same way and it was not going to back Bradley in the primary.

Yorty – ever the pragmatist – wanted to mend relations with the Black community. After all, Bradley might not run or, if he did, he might not even emerge as one of the top two in the primary. So, there was no point in repeating the rhetoric of 1969, at least before Bradley became his opponent. In early November 1972, Yorty publicly boasted about LA's minority business development and pledged "*to accelerate the economic development in our minority community*."[5]

The 1970 Census data were being released around that time and the Census reported that the African American population and the "Spanish language or Spanish surname" population of Los Angeles *each* represented about 18 percent of the total.[6] Yorty had been appointed head of the local federally-sponsored Manpower Planning Council earlier. As chair of the Council, he appointed various local figures as members. Such councils were largely aimed at reducing minority unemployment through training. So, the mayor had something about which to brag.

As the incumbent, the mayor – just by dealing with normal city concerns – also had a public relations advantage; what he did and said was automatically news. Annoyed by airplane noise around LAX? Yorty pledged to pursue a city lawsuit against the airlines. Interested in municipal beautification? A new tree-planting program was announced. For those concerned about Yorty's frequent trips abroad, the mayor had a rationale. He claimed that the U.S. State Department was asking him to organize a trade mission to Southeast Asia. Interested in urban planning issues? Yorty caused the City Planning Commission to redo its housing plan, indicating that federally-required developer participation in the process was lacking.

Although the focus of the November 1972 election was largely on the presidential race, LA voters in that election went along with locating the LA Police Academy in Elysian Park, which Yorty had advocated. Shortly after the election, Yorty pointed to employment practices in city employment designed to foster what today would be called a "diverse" workforce. An Advisory Affirmative Action Committee was created to encourage such efforts. Wage increases for lower-paid custodians were announced.

On the other hand, there were conflicts with the City Council over such matters as standards for streetcorner newspaper sales racks and upgrading the park surrounding the Olvera Street tourist area. It's not clear that such arcana of governance registers very much with voters, most of whom would be

[5]"City's Minority Business Development Told by Yorty," *Los Angeles Sentinel*, November 2, 1972. The *Sentinel* was the African American newspaper of LA at the time.
[6]"City's Census Figures Compiled for Release," *Los Angeles Times*, November 2, 1972.

hard pressed to explain the disputes. But what such disputes did accomplish was to keep the mayor's name in the news.

Candidacy Announcements Begin

"*The safety of the citizens is the first issue in this campaign*."

Jesse Unruh announcing his candidacy for mayor[7]

By mid-November – with the excitement of the November election now past – attention began to turn to the upcoming mayoral race. News reports indicated that Jesse (Jess) Unruh would be announcing his candidacy for mayor. Unruh had been a state assemblyman from LA and had worked his way to becoming the powerful speaker of the state assembly. As such, he developed skills for controlling the California legislative agenda and rivaled Democratic Governor Pat Brown in influence. When Republican Ronald Reagan defeated Brown in 1966 and became governor, Unruh became the key Democrat at the state level.[8] He ran for governor in 1970 when Reagan was up for re-election. But Reagan remained popular, and Unruh lost. Running for mayor in 1973 would be a path back to power for Unruh.

For those Democratic politicos looking for a tradition candidate to run against Yorty, Unruh was clearly the kind of person they were seeking. For many years, Unruh looked the part of a Hollywood image of a political boss. He was called "Big Daddy" because of a weight problem.[9] But by the 1970 gubernatorial run, he had lost the excess weight and seemed to key elements of the local Democratic establishment in LA to be an attractive figure who could beat Yorty. Unruh, it might be noted, had supported incumbent Mayor Norris Poulson over Yorty back in 1961, but by 1965, he seemed to have an alliance of convenience with Yorty. That kind of "flexibility" was the mark of a traditional political operative.

Bradley saw the threat posed by an Unruh candidacy and warned against "*people seeking new careers or… public figures seeking new bases on which to build old careers*."[10] He preempted the Unruh official announcement by quasi-announcing his own candidacy for mayor in the form of publicized letters to former supporters of his 1969 campaign. Yorty didn't feel the need to announce anything while this drama of potential opponents was developing. He attended a champagne reception for the LA-Berlin sister city committee.

When Unruh made his official announcement, he focused on law-and-order issues, issues that he figured would otherwise be grabbed by Yorty as in 1969, and which had been used in that race against Bradley. But whether the law-and-order issue in 1973 would have the same salience that it had in 1969 was an open question. Bradley, for his part, was talking about trying to get the City Council to support a move for state tax reform that would include a property tax limit. In any event, when asked to respond to Unruh's remarks, Yorty just retorted, "*I don't care what he said*."[11] A few days later, however, he appeared on a "Crime Fighters" TV show along with former Governor Pat Brown, in effect identifying again with the law-and-order agenda.

---

[7]Quoted in Richard Bergholz, "Emphasizing Law and Order, Unruh Enters Mayoralty Race," *Los Angeles Times*, November 15, 1972.
[8]Bill Boyarsky, *Big Daddy: Jesse Unruh and the Art of Power Politics* (University of California Press, 2008).
[9]The name came from a character in the Tennessee Williams play and movie, "Cat on a Hot Tin Roof."
[10]"Unruh Ready to Enter L.A. Mayoral Race," *Los Angeles Times*, November 14, 1972.
[11]Quoted in Ed Meagher, "Yorty Noncommittal on Mayoral Race," *Los Angeles Times*, November 16, 1972.

Unruh claimed that LA was being poorly managed by Yorty with duplication of services, dirty air, and a lack of public transit. If LA continued on its path under Yorty, said Unruh, it would "*become a city of the poor, a city of the minorities like Baltimore or Newark, N.J*."[12] Holding out the threat of LA becoming a city of minorities was the kind of rhetoric Yorty might have used back in 1969. Unruh hired political consulting firm Spencer-Roberts, the firm that ran Governor Reagan's campaign against Unruh in 1970, to advise him on attracting the kind of right-leaning voters that had supported Reagan and Yorty in the past.

The fact was that Yorty could "campaign" without officially announcing his candidacy just by being mayor. He ordered a cleanup of the Venice area. He announced awards of city contracts for various public construction projects. He approved new lights for tennis courts in the San Fernando Valley. Yorty attended civic events, including a senior citizens pageant, putting him in the spotlight. There was pushback at the City Council about municipal funding of events – such as a "Salute to Volunteers" – that Yorty would be attending. "*This is a Sam Yorty campaign affair*," council member Robert Wilkinson grumbled.[13] Despite the grumbling, the event went ahead with Yorty as honorary chair.

Meanwhile, Yorty proclaimed a "Jerusalem Week" in honor of a Jerusalem fair being held at the Convention Center. He visited a municipal asphalt plant which featured new emissions controls to demonstrate an interest in reducing air pollution. Although he had based his original 1961 campaign on opposition to a city trash recycling mandate, he now praised a recycling project that collected cans and plastic containers. On the other hand, he warned about overly aggressive environmentalism that was pushing the U.S to becoming too dependent on Middle East oil. And he supported loaning two Black LA police officers to the Virgin Islands to help organize police services there.

There were other possible candidates considering running in 1973 including a Nixon administration official, Joseph Blatchford, who – among other positions – had been director of the Peace Corps. (Blatchford ultimately did not run.) Former Police Chief Tom Reddin – who had resigned to become a TV news commentator in 1969 – announced he would run. Reddin chose to attack Unruh as "*the Big Daddy of the legislature who doled out the money*."[14] As for Bradley, Reddin said he was a "*pretty good*" council member and "*a nice guy*."[15]

In short, Reddin assumed that Yorty would surely be one of the two survivors of the primary, that the fight was for the other slot, and that the heavy competition for that other slot would be Unruh, not Bradley. Yorty responded that if Reddin "*really wanted to serve the public, he should have stayed as chief*."[16] He noted that if Reddin became mayor, he would be double dipping, collecting both his mayoral salary and his city pension.

Yet another candidate known to be interested in running was City Council member Joel Wachs. Back in 1969, Bradley had formed an alliance of African American and Jewish voters and supporters and hoped

[12]Quoted in Bill Hazlett, "Duplication in City Jobs Hit by Unruh," *Los Angeles Times*, November 20, 1972.
[13]Quoted in Erwin Baker, "Wilkinson Accuses Yorty of Politicking in Sponsoring Fete," *Los Angeles Times*, November 16, 1972.
[14]Quoted in Bill Boyarsky, "Reddin Announces His Candidacy for Mayor," *Los Angeles Times*, November 27, 1972. Reddin was a registered Democrat.
[15]Quoted in Bill Boyarsky, "Reddin Enters Mayor's Race, Calls Unruh a 'Carpetbagger,'" *Los Angeles Times*, November 28, 1972
[16]Quoted in "Yorty Silent on Candidacy, Raps Reddin's," *Los Angeles Times*, November 30, 1972.

to do so again. It was thought that if Wachs, who was Jewish, entered the race, he might peel some Jewish support from Bradley. Bradley, however, received some good news regarding another election. He was elected as first vice president of the National League of Cities and thus automatically the League's president in 1974.

Although he had informally announced his candidacy for mayor of LA by letter just ahead of Unruh, Bradley made a formal announcement in early December. Not to be outdone on the law-and-order issue, Bradley's announcement featured a large photo of him in a police uniform from his days with the LAPD. In response to a reporter's question, he promised that "*a careful check*" would be made of his campaign workers to exclude militants and radicals.[17] He accused Mayor Yorty of poor management and spoke about the need for rapid transit. Yorty meanwhile was facing a dispute with the federal government involving a cutoff of funding for LA's "Model Cities" program involving the civil service status of workers funded by the program. (The dispute was later resolved, and funding went forward.)

It appeared that Bradley's immediate problem was not Yorty (who would likely survive the primary) but Unruh. Unruh had attained some notable support among Black politicians, notably state senator Mervyn Dymally who charged Bradley with insufficient support for other African American candidates. A Black business group also was reported to be supporting Unruh.[18]

Although candidates were free to make announcements or float trial balloon hints about running, becoming an official candidate involved officially filing to run in the election, and filing could not take place until January. Yorty let it be known through Deputy Mayor Joseph Quinn that he would be making an announcement to run in early January. Quinn also let it be known (or claimed) that Yorty had rejected an offer from the Nixon administration to become ambassador to Mexico, that polling suggested that Yorty was perceived as doing a good job as mayor, and that Yorty viewed Reddin and Bradley as "*two ex-cops knocking each other out on law and order*."[19]

Yorty himself noted that the other candidates have "*been fighting each other more than they've been fighting me and as an observer I'm very happy about it*."[20] In short, his hope was that his opponents would target each other, all trying to appear as centrist, law-and-order proponents, weakening each other in the process. The result would be that a weakened opponent would end up as his rival in the runoff and be defeated. Despite saying he would be aloof from the fight, Yorty charged that Bradley had changed his council vote on a zoning matter related to a gas station after receiving a $2,200 payoff, a charge which Bradley labeled "*a typical Yorty trick*."[21]

Nonetheless, there were signs at the time that Yorty's strategy of letting his opponents weaken each other was playing out. The LA County Democratic Council was split between Bradley and Unruh and wasn't able to endorse either candidate. Back in 1969, the Council had united behind Bradley. Meanwhile, Yorty could go about the business of being mayor announcing such voter-pleasing

[17]Quoted in Kenneth Reich, "Bradley Announces His 2nd Mayoral Candidacy," *Los Angeles Times,* December 5, 1972.
[18]"Bradley, Unruh Mayoral Bids May Split Black Voters Again," *Los Angeles Sentinel*, December 7, 1972.
[19]Quoted in Kenneth Reich, "Yorty to Announce 4th -Term Candidacy Jan. 3, Quinn Says," *Los Angeles Times*, December 8, 1972.
[20]Quoted in Kenneth Reich, "Reddin Rejects Bid to Appear With Unruh and Bradley," *Los Angeles Times*, December 8, 1972.
[21]Quoted in Erwin Baker, "Yorty Revives Payoff Charge Against Bradley," *Los Angeles Times*, December 21, 1972.

developments such as road improvements in the San Fernando Valley and a possible second planning commission for the Valley. His wife unveiled a bust of her husband in the LA Convention Center, the location – the mayor could announce – of an annual turkey Christmas dinner for children.

Yorty could also watch more candidates enter the race. City Council member Joel Wachs, who earlier had hinted at becoming a candidate, announced informally that he would run. In doing so, Wachs, who represented the Westside, noted his role in opposing oil drilling in Pacific Palisades, which had become a hot environmental issue at the time. Whether that local issue was enough for a viable citywide candidacy was an open question, however. Also announcing was a former conservative TV commentator, Robert Dornan, who said he would appeal to Republican voters "*as a dark horse*."[22]

The Race Begins

"*I'm No. 1 in line to sign up, I'm No. 1 in the polls, and I expect to be No. 1 on Election Day*."

Tom Bradley on filing official papers
to run in the 1973 mayoral race[23]

One of the byproducts of the 1972 presidential election was that Democrat George McGovern's candidacy did not excite minority voters. Many did not vote in that election and, under the rules in California of that era, not voting in an election would purge a voter from the registration list for the next election. Black districts – districts on which Bradley depended - were especially hard hit by the purge. The impact was less in the San Fernando Valley districts where Yorty had his strength. Thus, Bradley's first priority was a voter registration drive, a prospect termed a "*damned expensive*" campaign expense by a Bradley aide.[24]

That problem was at least a known factor in the election. But there were other bits of information emerging. While it might have been assumed that Yorty would be one of the top two in the primary, some early polling suggested that the top two might be Bradley and Reddin. The problem which such polling is that as the year 1973 began, voters had yet to shift attention to the city race. Moreover, it might turn out that the issue of the day – which had been assumed by political consultants to be law and order – might be some other concern or concerns.

Law and order had always been assumed to be an issue for White voters. But some early polling suggested that issues such as air pollution was now of greater importance to them. It was Black residents, the polling suggested, that were worried about crime, particularly gang violence in schools. Thus, Bradley – as a former police officer – might be able to make a more effective appeal to such voters than former Police Chief Reddin or Unruh. Bradley supported giving teachers an electronic device to call

[22]Quoted in Bill Boyarsky, "Dornan, Ex-TV Personality, Enters L.A. Mayoral Contest," *Los Angeles Times*, December 9, 1972. Dornan later succeeded in becoming a congressional representative in 1985 covering such areas as Santa Monica. When that district became liberal due in part to the rent control issue, he moved to the more conservative Orange County and was elected to congress there, taking office in 1993. But changing demographics and political trends in his new district eventually led to his defeat.
[23]Quoted in Bill Boyarsky, "All of Top Challengers File in Race for Mayor," *Los Angeles Times*, January 4, 1973.
[24]Bill Boyarsky, "Bradley Has Task – Reregister Blacks Who Failed to Vote in '72," *Los Angeles Times*, January 2, 1973.

for help quickly in case of violence in the classroom. Knowledge that such a system existed, he said, would also be a "*psychological deterrence*" to those who might commit school violence.[25]

As an example of changing priorities, California voters in the 1972 general election had enacted Proposition 20 creating the Coastal Commission, suggesting that environmental issues were becoming important. In the LA area, such concerns expressed themselves as opposition to oil drilling along the coast and the beginning of what was later termed the slow-growth movement. The Yorty campaign had considered hiring the Whitaker and Baxter consulting firm, the same firm that had defeated state health insurance in the 1940s and derailed the EPIC campaign of Upton Sinclair for governor in the 1930s. But Whitaker and Baxter had failed to defeat Prop 20 and the Yorty campaign decided to seek other assistance.

All of the major challengers to Yorty – Bradley, Unruh, and Reddin - filed papers on the first day such filings were possible, January 3rd. The lesser candidates, including Wachs, Dornan, and Blatchford, did not immediately file. Wachs, in making a formal announcement that he would run, acknowledged that some of his own staff were unenthusiastic about his prospects. Wachs and Dornan ultimately filed for the mayoral race; Blatchford never did.[26]

Mayor Yorty made an official announcement of his candidacy the day after the other major candidates filed and subsequently filed his own papers. He said he would stress his accomplishments as mayor in the campaign and wouldn't respond to charges of his rivals, an unlikely pledge. And only a few days later, Yorty attacked Reddin for not being sufficiently supportive of him as police chief. Reddin responded that during the 1969 campaign, he had locked up Bradley's police personnel records so that Yorty operatives would not try to make use of them. Given the controversy, the current police chief, Ed Davis, ordered both the Bradley and the Reddin files locked up. Bradley subsequently released his own copies of the records.

Yorty did admit that it was unlikely he could obtain 50%+ of the votes in the primary, and thus avoid a runoff. But, as noted above, as the incumbent mayor, Yorty had an automatic platform to create news and attention which would be helpful to his campaign. Shortly after his candidacy announcement, for example, he proclaimed "Young Filmmakers Week." And he proclaimed "Adolph Zukor Day," in honor of the famed filmmaker's 100th birthday. Bradley, meanwhile, pivoted away from law-and-order matters and focused on a controversial proposal for oil drilling in the Pacific Palisades. He charged that a lobbyist for Occidental Petroleum had gotten access to city files and changed and removed documents related to the proposal.

Unruh, however, stayed on the law-and-order issue and charged that Bradley was "*weak on the law enforcement issues*" and that he was associated with radicals. In effect, he echoed Yorty's themes from the 1969 election.[27] But there was no guarantee that what worked in 1969 would have the same

---

[25]Jack McCurdy, "City Schools to Try Electronic Alarm Devices," *Los Angeles Times*, January 5, 1973.

[26]A minor candidate, Malbour Watson, filed on a platform of abolishing the position of mayor and converting LA to a city manager system. There were rumors that Watson, an African American, had been encouraged to run by other candidates in an effort to take votes from Bradley. However, given Watson's platform, it seems more likely that he just wanted the publicity that would result from filing for the office. After the primary, he endorsed Yorty. As is often the case, there were many non-serious candidates who filed, a total of thirteen including Yorty, Bradley, Unruh, Reddin, Wachs, and Dornan.

[27]"Bradley Weaker Now, Unruh Says," *Los Angeles Times*, January 13, 1973.

resonance in 1973. And in fact, Yorty was being peripherally pulled into a bribery case in Santa Barbara County.

A singer named Phil Regan had been arrested for attempting to bribe a Santa Barbara County supervisor in a zoning matter. Regan, as it turned out, had some involvement with Yorty and at one point had driven Yorty to meet with a fellow named John Alessio in a federal prison. Alessio – described as a racetrack baron – was in prison for tax evasion. There was a charge that the meeting had something to do with campaign funds which Yorty denied, saying he met with Alessio because he felt sorry for him. It was a complicated story involving other political figures that simply didn't smell right, whatever the details or truth. And it meant that from time to time during the campaign, new developments in the Regan affair would appear in the news. Thus, when the Santa Barbara Board of Supervisors voted against the zoning matter, Yorty's name was again raised.

Yorty's sometime position of staying aloof from the fray and letting the other candidates attack each other had its limits. At a debate with the other candidates present, Yorty sent the president of the Board of Harbor Commissioners to represent him, rather than appearing himself. In fact, the other candidates focused on failings of the Yorty administration. As various problems such as smog and the lack of rapid transit were raised, his spokesperson kept arguing that such issues were beyond the mayor's control. While it is true that LA has a weak mayoral system compared with other major cities, saying that there is not much the mayor could do about important issues of the day was not a great debating tactic.

Moreover, Yorty was known for commenting on foreign affairs and other matters not generally within mayoral control. At a time when public opinion was shifting towards environmental concerns, Yorty attacked environmentalists, including those opposing coastal oil drilling. "*Some of these people are so selfish*," he said, "*that they don't even want to look at a platform out off the coast for twenty years to tide us over this period when we're going to have a crisis in the shortage of energy*."[28]

By the end of January, Unruh, Reddin, and Dornan were still focused on the law-and-order issue, trying to out-Yorty Yorty on the assumption that the 1969 contest was being repeated. Among those three, Unruh had the support of organized labor officials which also looked back at 1969 and that feared going with Bradley again would produce a Yorty victory.[29] Bradley's campaign was focused on improved city management (not a sexy topic), lack of rapid transit, and environmental concerns such as oil drilling (matters of growing voter concern and thus increasingly sexy topics).

Bradley campaign officials released poll data indicating that Bradley was the strongest candidate with Reddin and Yorty roughly tied for second place. In addition, they claimed that union members (as opposed to labor officials) favored Bradley and showed little support for Unruh.[30] Wachs was already being branded as an also-ran and had little in the way of campaign funds to put forward whatever positions he wanted to take. He barely registered in the poll. While polls produced for campaigns can

[28]Quoted in Kenneth Reich, "Yorty Speech Attacks Ecology 'Extremists,'" *Los Angeles Times*, January 20, 1973.
[29]Organized labor was largely composed of AFL-CIO unions represented by the LA County Federation of Labor. At the time, the United Auto Workers (UAW) union was outside the AFL-CIO due to disagreements over the Vietnam War. The UAW did not endorse anyone in the primary. Note that at this point in history, there was a significant auto production industry in the LA area.
[30]Bill Boyarsky, "Poll Shows Bradley Holds Lead in Race for Mayor, Aides Say," *Los Angeles Times*, January 26, 1973.

always be viewed with skepticism as biased, in this case – with hindsight – the poll results were prescient.

What's the Issue?

"*Just another attempted smear*."

Mayor Sam Yorty referring to charges
he had a conflict of interest related to two oil firms[31]

Given the mix of mayoral candidates, the challenge became determining what issue(s) really mattered to voters. The assumption that THE issue would be law and order and that 1973 would be a repeat of 1969 was increasing looking shaky a month into the race. Unruh had relied on Spencer-Roberts Associates, a firm that normally worked on Republican campaigns, figuring that what he needed was conservative help. By early February, the firm was fired. The new manager of the Unruh campaign complained that "*if the election were held today, he's not first or second," referring to Unruh*.[32]

If law and order in 1973 was not going to be as central an issue as it was in 1969, Reddin in particular – running as a former police chief - was without the issue that would most justify his candidacy. He was left to flail about looking for something else. Reddin charged that a former, and now-deceased, Yorty administration official had once offered him a $10,000 campaign contribution in exchange for a promise to appoint him to the Police Commission if Reddin were elected. Yorty suggested that Reddin had picked on a dead man who could not deny the accusation.

The oil drilling issue was becoming more salient, undermining Yorty's complaints about excessive environmentalism. A move in the City Council began to put a measure on the May 29 ballot (the runoff election) that would restrict coastal oil drilling. It appeared that Yorty was listed as a director of an oil drilling firm, a fact pointed out by Reddin. The firm's president denied that Yorty was a director and called the listing an error. But Yorty did have some kind of relationship, never clear, with two oil firms. Like the Santa Barbara bribery case, the issue didn't smell right, and anything related to oil immediately invoked the coastal drilling issue. It raised the specter of some kind of conflict of interest on the part of the mayor.

One component of the 1969 contest which Bradley did heavily count on was continuation of the Black-Jewish alliance that was an essential feature of his prior campaign. As a result, there was an incentive for other candidates, including Yorty, to try and undermine it. A major issue of that time was the plight of Soviet Jewry. Jews, hoping to escape antisemitism, were generally blocked from emigrating from the Soviet Union, so-called "refuseniks." At one point, the mayor of Moscow visited LA and was greeted by Yorty. A Jewish group wanted Yorty to hand the visitor a letter protesting the situation, and Yorty grew testy when reporters asked him if he had passed on the letter. Later, he said he did pass on the letter. But the testy behavior tended to undercut the gesture.

By the end of February, with a little more than a month to go before the primary, law and order was clearly not going to be the winning issue, environmental concerns were becoming more important, and

[31]Quoted in Richard Bergholz, "Yorty Scoffs at His Opponents, Claims They Can't Find Issues," *Los Angeles Times*, February 8, 1973.
[32]Quoted in Bill Boyarsky, "Aide Tells Why Unruh Fired His Campaign Chiefs," *Los Angeles Times*, February 6, 1973.

the Yorty campaign was being weakened by these and other developments. In addition, since all the candidates had initially assumed law and order would be a key issue, they all had taken law-and-order positions, thus neutralizing each other. Without law and order, Reddin had no special base of support. And there was even a legal issue as to whether he could list his occupation on the ballot as a *former* police chief since that designation was not his current occupation. Dornan would also have a limited appeal, absent a law-and-order focus.

Unruh's campaign clearly had stumbled. However, what Unruh did have was the support of organized labor. And Wachs, already a long shot, was trying to put his name in public consciousness with a TV advertising campaign that would consume most of the money he had managed to raise.[33] Once the TV money was gone without producing a notable jump in voter interest, Wachs' campaign would be finished.

Closing In On the Primary

"*This is the most honest and efficient city government in the nation*."

Mayor Sam Yorty[34]

With law and order fading as an issue, Reddin picked up on Yorty's seeming association with oil companies. He released documentation of the Yorty link. Yorty complained that the documents were stolen. Reddin, he said, "*has either received stolen property or connived to get it stolen*."[35] The *LA Times* editorialized on the coastal drilling issue by suggesting that the City Council put a proposition on the ballot letting voters decide on whether there should be drilling. Yorty – who favored drilling – would be hard pressed to oppose such a suggestion.[36] The *LA Times'* editorial board surely understood that a let-the-people-decide was an indirect slam on Yorty.

Yorty was also getting bad news from the federal government. The Model Cities Program in LA and other federally-funded programs were going to have budget cuts. Bradley pushed for a lawsuit to challenge the cuts. Yorty's plan to fix up the Venice Canals died when some local property owners opposed it and brought legal action. Once the Unruh campaign had received the endorsement of organized labor – making Unruh's outlook for the primary brighter – his fundraising picked up. He was able to hire a political mailing firm that reputedly could precisely target particular groups, notably "Jewish-surname" voters that Unruh hoped to pull from Bradley. (The use of computerized data bases in political campaigns was relatively new at the time. The Yorty campaign was also using the new technology.)

There were also mystery mailers sent without return addresses or any indication of which campaign had sent them. One, sent to Black ministers, said that "*Bradley quits Christian post to satisfy demands of Jewish leaders*." It cited a news article that indicated that Bradley had resigned as an honorary chair of a

[33]Wachs did not have a professional campaign manager. Rather, he had a friend who had managed his successful campaign for UCLA student president when he was an undergraduate.
[34]Quoted in "City Hall Best in U.S., Yorty Says," Los Angeles Times, March 1, 1973.
[35]Quoted in Bill Boyarsky, "Yorty Says Oil Firm Letters Revealed by Reddin Were Stolen," *Los Angeles Times*, March 7, 1973.
[36]"Let the Voters Decide on Oil," *Los Angeles Times*, March 1, 1973.

Christian group, but the article in question did not attribute the resignation to "*Jewish leaders*." The mailer's purpose appeared to be driving a wedge in Bradley's Black-Jewish support.

Unruh denied the mailing came from his campaign. The individual responsible for the mailing had at one time been associated with Yorty. But the mailers were mainly aimed at comparing Unruh favorably relative to Bradley. He would not disclose the campaign source.[37] But in response to the controversy, Unruh said the mailers would be revised. Bradley said that Unruh had "*got his hand caught in the cookie jar*."[38] Bradley also charged that Unruh's campaign was planning to send another divisive mailing, this time to Jewish voters.

Little Public Attention

"*His personality and attitude I don't like. He looks like a gangster. And I also don't like someone to presuppose that as a union man, I would vote for Unruh*."

Union painter saying he planned to vote for Reddin[39]

A Field Poll was commissioned by the *LA Times* that appeared two weeks before the April 3rd election. It was taken March 10-15, 1973, and it suggested that – as in 1969 – the result of the primary would be a runoff of Bradley vs. Yorty.[40]

Field Poll Results: March 10-15	
Bradley	26%
Yorty	21%
Unruh	13%
Reddin	12%
Wachs	5%
Others	1%
Undecided	22%

The poll also indicated that in a projected runoff with Bradley as a candidate, Bradley would beat any of the other major rivals.[41] However, it is important to note that half of those individuals polled could not name a major candidate who were running without the aid of the pollster. And many respondents, even with the names provided, were undecided. Thus, the key challenge for the candidates was to hang on to

[37]Kenneth Reich, "Bradley Labels Unruh Mailout to Blacks 'Vicious, Outrageous,'" *Los Angeles Times*, March 14, 1973.
[38]Quoted in Kenneth Reich, "Unruh Aides Urge Bradley to Disavow Anti-Semitism Letters," *Los Angeles Times*, March 16, 1973.
[39]Quoted in Kenneth Reich, Voter Reaction to Mayor's Race: Dissatisfaction, Boredom, *Los Angeles Times*, March 20, 1973.
[40]Mervin D. Field, "Mayoral Race Shapes Up as Rerun of 1969," *Los Angeles Times*, March 20, 1973. The Field poll was in many respects THE public opinion poll of California. The poll was established in 1947 and ceased to operate in 2016. However, many results from the poll can be found at archive.org through its "Wayback machine."
[41]Mervin D. Field, "Bradley Projected as Winner Against Any Runoff Opponent," *Los Angeles Times*, March 22, 1973.

the voters they had and try and pull votes from the undecided group as well as from the others in the race.

Despite the fluidity in the contest, Bradley said he was "*especially pleased*" with the poll results. And he said that he didn't think racial issues that were raised against him in 1969 would work in 1973.[42] He resumed his strategy of talking about governance and policy issues, arguing, for example that more competition was needed in the taxicab industry. (The Yellow Cab had a city-granted monopoly of service in key areas of Los Angeles at the time.) Reddin went on promoting law and order. But he widened his topics to include complaints about liberal donors to the Bradley campaign and to the Health Department's requirements for labeling fish.

Yorty blamed Bradley for raising racial issues in 1969. Repeating a theme from 1969, he declared that "*forces from the outside are trying to take over the city*."[43] He got into a scrap with the City Council regarding funding for the Board of Grants, an agency set up to distribute funds to various programs. He also received news that the federal government would be slashing funding for the city's summer youth jobs program. The Santa Barbara zoning case trial, which peripherally involved Yorty, concluded with a guilty verdict of the defendant, another reminder of a murky set of circumstances involving the mayor.

Unruh explicitly pointed to the fact that half of those polled couldn't name the candidates. Now that he had established "*the kind of coalition that… is necessary*" – likely referring to organized labor - his campaign could begin afresh.[44] Unruh said his late blooming new campaign would focus on his long experience in getting things done in the state legislature. Wachs cited support of the city's fire chief for his (Wachs') efforts to obtain more money for the sale of certain Fire Department property, leading the chief to complain that he had not supported any candidate in the race.

When the Fire Department matter failed to catch on, Wachs' attacked two contributors to the Bradley campaign as being linked to Las Vegas gambling interests. It appeared that the two were real estate developers with interests in projects in Las Vegas that contained gambling facilities. Since gambling is legal in Nevada and a central element in its tourism, many buildings there contain at least slot machines. However, the gambling charge did attract some attention in the race.

Given the fluidity of an election that had not yet brought about substantial public passion, the candidates were scrambling to find whatever support they could find. A few votes here or there might be enough to bring a candidate into second place, even if the Field Poll suggested that it would be a Bradley-Yorty contest. At the time, racial/ethnic issues in Los Angeles tended to be seen in Black-White terms even though it was estimated that about 18% of the city's population was Mexican-American. Although 18% is a big number, in elections it was reduced to 5-6% due to non-citizenship, a concentration of the population below age 18, and a low propensity to register and vote of those eligible. But with the April 3rd primary vote nearing, Unruh in particular was hoping that unions with large Mexican-American membership would pull votes for him.

---

[42]Quoted in Richard Bergholz, "Bradley 'Pleased' Poll Sees Him in Rematch with Yorty," *Los Angeles Times*, March 21, 1973.

[43]Quoted in Bill Boyarsky, "'Outside Forces' Trying to Take Over City, Yorty Says," *Los Angeles Times*, March 26, 1973.

[44]Quoted in Kenneth Reich, "Unruh Points to Record of Getting Things Done," *Los Angeles Times*, March 22, 1973.

A second Field Poll taken March 24-28 suggested that all of the last minute campaigning hadn't changed the basic result that the top two finishers would be Bradley and Yorty.[45] And it suggested that Bradley had been most successful in attracting voters who were previously undecided.

Field Poll Results

	March 24-28	March 10-15
Bradley	33%	26%
Yorty	23%	21%
Unruh	11%	13%
Reddin	13%	12%
Wachs	4%	5%
Others	1%	1%
Undecided	15%	22%

There was the usual last minute barrage of mailers, charges, and countercharges. Unruh indicated that he might not support Bradley if the contest turned out to be Bradley-Yorty. And, as those not doing well in opinion polls are fond of saying, the only poll that counts is the actual election. Still, voters had other things to think about. Inflation had returned as a national issue. A combination of the remnants of the Nixon administration's price controls program and underlying inflation produced a meat shortage, with empty supermarket freezers and a call for a consumer boycott endorsed by the City Council.

Although the *LA Times* had editorially endorsed Bradley in the 1969 runoff, it was noncommittal in the 1973 primary, saying that Bradley, Reddin, and Unruh were all acceptable, basically an anyone-but-Yorty stance. The *LA Herald-Examiner*, the second paper in the city and by then the more conservative, endorsed Yorty.[46] The *Advocate*, a publication aimed at the gay community, supported Unruh. It acknowledged that Wachs was a supporter of gay rights but said he couldn't win, and that Bradley had been too cautious on gay issues whereas Unruh had been more supportive.[47]

The Primary

"*I don't think race will be an issue*."

Sam Yorty commenting on the upcoming runoff[48]

[45]Mervin D. Field, "Bradley Increases Lead, Reddin Edges Up in Latest Poll," *Los Angeles Times*, March 30, 1972.
[46]The *Herald-Examiner* was in the midst of a multiyear strike at the time which led to a significant circulation decline. The paper went out of business in 1989. It's downtown building, considered an architecturally notable structure, still stands in downtown LA. The building deteriorated but was restored and currently houses a branch of Arizona State University.
[47]"Vote for Jess Unruh," *Advocate*, April 11, 1973. (The primary was April 3, but the newspaper was not a daily and would be on the newsstands at that time.) Wachs was a closeted gay man at the time, but the newspaper was probably aware of his sexual orientation.
[48]Quoted in Bill Boyarsky, "Bradley, Yorty in Runoff; Unruh 3rd," *Los Angeles Times*, April 4, 1973.

"*The mayor says he wants to talk about his record and so do I*."

Tom Bradley commenting on the upcoming runoff[49]

"*I find it pretty hard to support either one of them right now*."

Jesse Unruh referring to Bradley and Yorty
after he failed to survive the primary[50]

"*I just wasn't a good candidate*."

Tom Reddin commenting on his poor performance in the primary[51]

The Field Poll results predicted the outcome of the primary, although the poll had underestimated the ultimate voting strength of Unruh. [52]

	Primary April 3rd	Field Poll March 24-28
Bradley	**35%**	**33%**
Yorty	**29%**	**23%**
Unruh	**17%**	**11%**
Reddin	**13%**	**13%**
Wachs	**4%**	**4%**
Others	**2%**	**1%**
Undecided	**na**	**15%**

na = not applicable

Still, as in 1969, it was Bradley in first place and Yorty in second. The gap between them, however, was smaller than in the 1969 primary, suggesting at that point that a hard-fought runoff would be ahead.[53]

Unruh was later said to have never gotten over his failure to come in at least second in the primary and blamed news coverage of his campaign.[54] However, part of the reason for his loss may simply be that he was perceived as a state-level politician, given his past career as speaker of the state assembly and unsuccessful candidate for governor. He reportedly had complained to aides during the campaign that he felt somewhat lost in municipal politics. "*You'd think that after twenty years in politics, I'd know how I*

[49]Ibid.
[50]Ibid.
[51]Ibid.
[52]"Election Results," *Los Angeles Times*, April 5, 1973. Includes 3,168 precincts out of 3,169.
[53]In the 1969 primary, the gap was 42% for Bradley vs. 26% for Yorty.
[54]Bill Boyarsky, *Big Daddy Jesse Unruh and the Art of Power* Politics (University of California Press, 2008), pp. 208-209.

am doing, but I don't," he reportedly said.[55] Despite the setback, Unruh ran for state treasurer in 1974 and won. It created a new long-term career for him in the days before term limits; he died in that office in 1987.

Perhaps if Unruh had foreseen that he had a future in state politics, he would have stopped grumbling about Bradley. Two weeks after the primary – although he had not endorsed Yorty – he was harsh in his judgment of Bradley. "*I don't agree with many of the things that Sam Yorty does," he said. But when Sam Yorty wants to do something, he is reasonably competent at the process. I have grave doubts about Tom Bradley in that respect*."[56]

Tom Reddin had no further political career after the primary and died in 2004. He expressed a belief that his poor showing was because he did not sufficiently push the law-and-order theme, even though his wife had pushed him to "*mention murder and rape as a code-word for security*."[57] He said the perception was that Yorty was better at using law and order as a proxy for the racial issue.

Joel Wachs continued on the LA City Council, becoming president of the Council at one point. In that capacity, he became acting mayor whenever then-mayor Tom Bradley was out of the state. But that was as close as he ever got to be the actual mayor. He ran for mayor unsuccessfully two more times.

The *LA Times* had told voters that Bradley, Unruh, and Reddin were all good candidates before the primary. But since the other two were out of the running, it supported Bradley in the runoff citing his "*integrity and initiative*."[58] The *Times* was back to the stance it had in 1969.

In the aftermath of the primary, it might have seemed likely that the Reddin vote would shift to Yorty. But although Yorty thought the Unruh vote would go to him, that result was not a foregone conclusion. To the extent that the Unruh vote was driven by the endorsement of organized labor, it might well switch to Bradley, since labor was likely to endorse Bradley in the runoff. The Wachs vote would also likely go to Bradley. However, to get Wachs' formal endorsement, Bradley eventually had to return the "gambling" money to its contributors.

The outlook as seen immediately after the primary was that the runoff would be a toss-up. And, as always, Yorty had the advantage of being in the news – free publicity – for doing his mayoral duties such as submitting a city budget, announcing additional bus service in the San Fernando Valley, issuing a proclamation honoring the Kelly Pipe Company on its 75th anniversary, and throwing out the first ball at a new high school baseball stadium.

The Runoff Campaign Begins

"*I don't think it's racism for me to state the fact that Bradley gets a big bloc vote from the Black community... But I think I am entitled to the Black vote because my administration has done more for minorities than has Bradley*."

[55]Quoted in David Shaw, "Unruh – as End Grew Near He Sought to Avoid Humiliation," *Los Angeles Times*, April 5, 1973.
[56]Quoted in Tendayi Kumbula, "Unruh Undecided on Supporting Bradley," *Los Angeles Times*, April 16, 1973.
[57]Kenneth Reich, "Reddin Believes He Lost Out Due to Racial Undercurrent," *Los Angeles Times*, April. 7, 1973.
[58]"The Vote for New Leadership…," *Los Angeles Times*, April 5, 1973.

Sam Yorty at a press conference[59]

Bradley's strategy was partly to try and focus on Big Issues of the city and to avoid the kind of defensive responses to charges by Yorty that occurred in 1969. The idea of slow growth was developing in that era. At the time of the 1970 Census, LA City's population was 2.8 million. Bradley proposed changes in zoning to limit the population in the future to a maximum of four million (about where it is at this writing). He proposed "downzoning," i.e., rezoning areas designated for multifamily housing to single family.

As many readers of this chapter will know, this downzoning approach is exactly the opposite of the trend in California today in the face of perceived housing shortages. Nowadays, the trend in California is upzoning, i.e., voiding single-family zones in favor of multi-family. Preserving single-family zoning is often tarred as NIMBYism. But at the time, Bradley's proposal "*to begin now to develop some kind of a gradual plan that would stabilize the growth of this city*" was viewed as an enlightened planning agenda.[60] It's a useful lesson to recall; what is seen as progressive in one era can be seen as retrograde in later period.

Another longstanding Bradley issue was the absence of good public transit in LA. He called for the dismantling of the Southern California Rapid Transit District (RTD) and its replacement by a revamped agency, something that didn't happen until the tail end of Bradley's final term as mayor in 1993. As expected, Bradley received the official endorsement of organized labor as it pivoted from Unruh. The secretary-treasurer of the LA County Federation of Labor termed Bradley "*the best friend of the labor movement*."[61]

Both the Yorty and Bradley campaigns began to negotiate dates for TV debates. One date was set for May 26th, shortly before the May 29th runoff. The *LA Times* called for more debates saying that – without much evidence – political candidates are less likely to make "*irresponsible attacks*" in the presence of their opponents.[62] There was little doubt that the *Times* viewed Yorty as the one who might otherwise make such attacks. Soon after the editorial, an additional date of May 7 was announced. And then another non-televised debate was set for May 1.

One attack from Yorty involved a Bradley family lawsuit. Bradley was the trustee of life insurance proceeds from his late brother's estate, and he was directed in his brother's will to hold the proceeds until his brother's sons (Bradley's nephews) reached age 25. The sons filed a lawsuit against Bradley and eventually there was an out-of-court settlement. Yorty said Bradley had tried to steal the money. Bradley called Yorty's interpretation a "*big lie technique.*"[63] Meanwhile, the Santa Barbara zoning case in which Yorty was peripherally entangled bubbled up again when the convicted defendant didn't show up for a probation hearing.

---

[59]Quoted in Bill Robertson, "Is Racism Surfacing In Bradley-Yorty Race?" *Los Angeles Sentinel*, April 19, 1973.
[60]Quoted in Kenneth Reich, "Bradley Advocates Population Lid of 4 Million in L.A.," *Los Angeles Times*, April 12, 1973.
[61]Quoted in Kenneth Reich, "AFL-CIO Group Roars Approval of Bradley for Mayor," *Los Angeles Times*, April 17, 1973. The Teamsters union – which was outside of the AFL-CIO after being expelled for corruption – did not endorse Bradley.
[62]"The More Debates the Better," *Los Angeles Times*, April 19, 1973.
[63]"Bradley Accuses Yorty of Using 'Big Lie' Technique," *Los Angeles Sentinel*, April 26, 1973.

The two candidates met for the May 1 non-televised debate before a group of architects, a preview of what was likely to occur in the later TV debates. Apparently anticipating Bradley's theme that Yorty was a do-nothing mayor, Yorty attacked Bradley for being a do-nothing council representative, pointing to a lack of parks, low-quality housing, and a high rate of disease in Bradley's district. Bradley accused Yorty of hiding behind the weak powers of the mayor as an excuse for not tackling city problems. Both candidates favored building rapid transit, but Yorty pointed to the fact that the RTD was a state agency, and the money would have to come from the state or federal government. Bradley charged that as mayor for twelve years, Yorty could have done more to develop a transit system.

In the post-debate period, the issue of oil drilling in the Pacific Palisades area arose. Occidental Petroleum had obtained the site for its proposed drilling through a land swap approved by city officials. Bradley said there had been "*deceit and deception*" involved in the land swap involving Yorty administration officials.[64] Yorty claimed that other city officials had been involved, he personally had nothing to do with the deal. Nonetheless, he argued that it was a good deal for the city. Bradley introduced a measure at the City Council to cancel the deal.

The first TV debate on May 7th mirrored the back-and-forth charges of the debate before the architects' group. Bradley brought up the Yorty connection to the now-convicted Santa Barbara zoning bribery defendant. Yorty raised the issue of the contributions to the Bradley campaign of the Las Vegas gamblers, although by this time Bradley had returned the donations. And there was back-and-forth regarding the litigation over the estate of Bradley's brother. Yorty charged that Bradley had prolonged the Vietnam War by opposing it. Bradley noted that Yorty had welcomed the mayor of Moscow to the city at a time when Jews were being refused exit permits to leave the Soviet Union.

The TV critic of the LA Times characterized the debate as a "*mudslinging exhibition*."[65] During the debate, the moderator of the debate had trouble maintaining control and at one point stopped the proceedings and went to a commercial. Yorty, reported the critic, ignored the agreed-upon rules of the debate, and talked over Bradley.

The *LA Times* was made nervous by the first TV debate because of the personal attacks and lack of substance. It seemed to be counseling Bradley – its choice for mayor – to tone it down in the future and avoid "*an extravagance of rhetoric*." The emphasis should turn away from "*name-calling to leadership*." In effect, it was advising Bradley not to try to act like Yorty.[66] Shortly after the editorial, Bradley seemed to endorse the advice saying, "*I am quite prepared as of this moment to stop that kind of [negative] campaigning*" and that he "*want(ed) to talk about the issues*."[67]

However, by that time, another non-televised debate had taken place at the Tarzana Chamber of Commerce. This one featured an opening prayer by a minister asking God to see that the debaters focused on issues of concern to city residents. As it turned out, however, both candidates arrived late and didn't hear the prayer. And no divine intervention occurred that prevented the kind of charges and

[64]Quoted in Richard Bergholz, "New Evidence Shows Deceit in Oil Drilling Case, Bradley Says," *Los Angeles Times*, May 3, 1973.
[65]Cecil Smith, "Round One of the Yorty-Bradley Debates," *Los Angeles Times*, May 9, 1973.
[66]"Mud in the Mayoralty Race," *Los Angeles Times*, May 9, 1973.
[67]Quoted in Bill Boyarsky, "Councilman Promises to Discuss Issues, Urges an End to Mudslinging," *Los Angeles Times*, May 10, 1973.

countercharges heard at the prior debates. Yorty again charged that Bradley had tried to steal his nephews' inheritance. Bradley spoke about a story which was "*talked about in the halls*" when Yorty had made some critical remarks about then-Police Chief William Parker. Parker had supposedly dumped a briefcase of incriminating material about Yorty on Yorty's desk to hush him up.[68]

The Race Continues to Heat Up

"(Yorty) *should be protecting the jobs of men and women in Los Angeles and not playing footsie around the world with foreign officials who only care about selling us cheaper goods that put our manufacturers out of business*."

Councilmember Tom Bradley[69]

Exactly where the candidates stood with voters at this point was not clear. However, a Field Poll suggested that in late April/early May, while both candidates had picked up votes from those knocked out by the primary, the gap between Bradley and Yorty had narrowed.

	Field Poll April 28 - May 3	Primary April 3
Bradley	42%	35%
Yorty	39%	29%
Undecided	19%	na
Other candidates	na	36%

na = not applicable

[68]Carl Greenberg, "Yorty, Bradley Hurl New Charges," *Los Angeles Times*, May 9, 1973.
[69]Quoted in Carl Greenberg, "Bradley Campaigns at Harbor, Attacks Yorty's Foreign Trips," *Los Angeles Times*, May 12, 1973.

Field Poll Results: April 28 - May 3

	Bradley	Yorty	Undecided
Anglo	36%	45%	19%
Black	71%	4%	24%
Spanish-speaking	39%	31%	30%
Union members	48%	34%	19%
Nonunion	39%	41%	20%
Protestant	35%	47%	18%
Catholic	34%	48%	18%
Jewish	55%	23%	22%
Other religion/none	51%	27%	22%
Men	43%	37%	20%
Women	39%	41%	20%

Within the poll results, although Bradley was ahead, his lead depended heavily on Black and Jewish voters. Union members, perhaps reflecting the endorsement of union leaders, favored Bradley at this point. But the large proportion of undecided voters in all groups, even African Americans, suggested that the post-primary contest was still wide open. A second televised debate was scheduled for May 13 and the question was whether it would be a repeat of the first debate with charges and countercharges or whether it would be a calmer, issues-oriented affair.

The verdict after the second, more civil TV debate was that it had indeed been calmer than the first. For example, there was discussion of developing a rapid transit system. But even if calmer, the two candidates differed on whether it was the mayor (Yorty) or the City Council (of which Bradley was a member) that should be blamed for the lack of transit progress. Bradley argued that more freeways should not be built and that there should be high-speed freeway lanes for buses. Yorty argued that freeways moved cars efficiently. Bradley opposed oil drilling along the coast, pointing to the dangers of pollution and oil spills; Yorty said there was a national fuel shortage and drilling should proceed.

While the debate's style was more civil, it is not clear that the TV debating format really allows deep exploration of the issues along the lines that policy wonks might enjoy, although the *LA Times* – which had criticized the first debate – wrote approvingly of the second. An editorial said it provided "*revelations of substantial differences in the way the two men look at problems that both agree will confront the city.*"[70] In any event, the new calm didn't last long. At the Westside Jewish Community Center, the two candidates confronted each other with Yorty stating that he was *"a long-time friend of the Jewish people*" and the audience should "*think about your traditional friends before you close your minds in this election*." Bradley pointed to a recent police arrest of "*some Jewish ladies playing cards for charity*" as a waste of police resources.[71]

The next feud involved Yorty's TV and mail advertising. Yorty referred to an interview in which Bradley's campaign chair was quoted as saying "any White born this society is a racist of some form or another."

[70]"Less of a Show, More of a Show," *Los Angeles Times*, May 15, 1973.

[71]Both quotes from Richard Bergholz, "Yorty, Bradley Revert to Slam-Bang Debating," *Los Angeles Times,* May 15, 1973.

The chair, Max Palevsky, denied making the statement and hinted at libel suits in a letter to TV stations. Bradley complained about a Yorty mailer that declared that Bradley was "*pro-Black Panther*."[72] After a lawsuit was filed, the mailer was withdrawn and revised. Councilmember Wachs – now in the Bradley camp – pointed to monetary contributions to the Yorty campaign from wives of city officials, a seeming evasion of a state law banning contributions from one city official to another. Former governor Pat Brown subsequently endorsed Bradley, citing the donation issue.

Meanwhile Yorty repeated charges made in the 1969 that radicals were behind the Bradley campaign. "*They're all kept pretty much in the background. But it's still the same combination. The radicals are still in there*."[73] Bradley pointed to the fact that Yorty back in 1961 favored a two-term limit for mayors but now was running for a fourth term. He said that he (Bradley) agreed with the old Yorty position favoring a two-term limit. (Of course, Bradley, once in office, was to serve five terms.) In response to a reporter's question, Bradley declined to support a two-term limit for City Council members saying the council wouldn't support putting the issue on the ballot.

A Week to Go

"*People will not be motivated by Yorty's very negative campaign*."

Nelson Rising, Bradley campaign advisor[74]

As the campaign reached its last stretch, it was widely expected that Mayor Yorty would repeat his strategy of the 1969 election. Indeed, because of that expectation, he didn't have to do much more than what he had already done. For example, his stating that much of the Black vote would go to Bradley was, on its face, a neutral statement that was evident from polling data. But any time Yorty mentioned race, it could be seen as a flashback/reminder to everyone of what he had said in 1969. Statements by Yorty that "*I'm not asking White people to vote for me because I'm White*" could be read as meaning precisely the opposite, i.e., raising White fears and asking them to vote for him.[75]

The *LA Times* conceded Yorty's point that the city was well run in comparison to some other big cities but attributed that fact to the "*professional cadre of municipal employees,*" not to Yorty. Under Yorty, the *Times* said, there had been "*drift, fragmentation, and division*." Bradley, according to the *Times*, had the capacity to lead on such issues as rapid transit, downzoning to achieve slow growth, limitation of coastal oil drilling, and "*attacking the problems of central-city decay or citywide violence, fighting for better housing for the poor and the old (and) for secure and crime-free neighborhoods*."[76]

This stance clearly moved the *Times* from its earlier pre-primary position that the next mayor could be any one of Reddin, Unruh, or Bradley (but definitely not Yorty). Meanwhile, the presence of Max Palevsky, Bradley's campaign chair, whose supposed comment suggesting all Whites were somewhat racist, had become a matter of continuing controversy despite his denial of having made the comment. Palevsky departed the Bradley campaign citing a pre-existing commitment.

---

[72]"Bradley Seeks to Halt Yorty's TV, Mail Drive," Los Angeles Times, May 16, 1973.
[73]Quoted in Richard Bergholz, "Yorty Says Hidden 'Radicals' Work in Bradley Campaign," *Los Angeles Times*, May 17, 1973.
[74]Quoted in Bill Boyarsky, "Yorty's Last Big Push May Be 1969 Rerun," *Los Angeles Times*, May 20, 1973.
[75]Quoted in Bill Boyarsky, "It's 'Corn' to Many, but Votes to Yorty," *Los Angeles Times*, May 6, 1973.
[76]"The Decision Is Clear," *Los Angeles Times*, May 20, 1973.

Another controversy erupted when the leader of the Black Panther Party, Huey P. Newton, was said to have endorsed Bradley. Bradley rejected the endorsement saying it was "*an obvious trick by Sam Yorty's campaign*."[77] (It seems unlikely that Newton would have been inclined to help the Yorty campaign.) Yorty said the endorsement was Bradley's "*own fault because his activity in the past would warrant the endorsement*."[78] Yorty also stated that Bradley was "*just anti-police, so naturally Huey Newton would prefer him*."[79]

However, the Bradley campaign had its own revelation regarding Bradley's position on the police. Shortly after the Newton issue was raised, Governor Reagan's former security chief, a former LAPD officer named William Friedman, came forward and said that former police chief William Parker had told him that had Bradley not retired from the LAPD, he would probably have been appointed a deputy chief. The implication was that Parker thought well of Bradley.

Yorty said, however, that Parker had told him that Bradley was "*no good as a policeman*" back when he (Yorty) was considering an endorsement of Bradley City Council.[80] Parker, of course, was long dead and could not be questioned about his former opinions. As this exchange over policing occurred, the *LA Times* editorialized (again) that Bradley was the obvious choice and that "*the city must not be diverted from the real issue.*"[81]

However, the Panther issue would not go away. Yorty said he had discovered that an individual in the Bradley campaign named John Floyd had helped organize the Black Panther Party of California, Inc. Floyd said that organization, which no longer existed, was different from the then-current Black Panthers for Self-Defense.

The now-defunct organization represented an effort to attract more African Americans into politics, according to Floyd.[82] He claimed that some individuals in the defunct group were now associated with the Yorty campaign. Floyd also said he had worked on Yorty's 1961 and 1965 campaign, which Yorty denied. Floyd also stated that "*I consider myself a patriotic American and I disassociate myself from the Black Panthers Party for Self-Defense*."[83]

[77]Quoted in Tom Paegel, "Bradley Denounces Newton's Backing, Hints at Yorty Trick," *Los Angeles Times*, May 21, 1973.
[78]Quoted in Richard Bergholz, "Newton's Support of Bradley Is Warranted," *Los Angeles Times*, May 22, 1973.
[79]Quoted in Richard Bergholz, "Panthers Naturally Prefer Bradley, Yorty Declares," *Los Angeles Times,* May 23, 1973.
[80]Quoted in Bill Boyarsky, "Parker Had Bradley Slated for Deputy Chief, Ex-Officer Says," *Los Angeles Times*, May 23, 1973.
[81]"Los Angeles Needs Leadership," *Los Angeles Times*, May 23, 1973.
[82]Floyd remained active in local politics after the Bradley campaign.
[83]Quoted in Richard Bergholz, "Yorty Describes Foe as 'Radical Left Winger,'" *Los Angeles Times*, May 24, 1973.

According to a Field Poll taken in late May, the Bradley-Yorty gap had slightly widened, with about a fifth of voters still undecided.

	Field Poll May 19 - May 23	Field Poll April 28 - May 3	Primary April 3
Bradley	43%	42%	35%
Yorty	37%	39%	29%
Undecided	20%	19%	na
Other candidates	na	na	36%

na = not available

Field Poll Results: May 19 – May 23

	Bradley	Yorty	Undecided
Anglo	37%	42%	21%
Black	77%	4%	19%
Spanish-speaking	45%	40%	15%
Union members	40%	42%	18%
Nonunion	44%	35%	21%
Protestant	39%	42%	19%
Catholic	33%	51%	16%
Jewish	53%	21%	16%
Other religion/none	54%	27%	19%
Men	43%	38%	19%
Women	42%	36%	22%

Although statistical margins of error are not available, it is unlikely that small changes in the percentages of the various subgroupings from the earlier poll had much meaning. There is some surprise in that the official endorsement of organized labor of Bradley did not produce a substantial advantage for him in the leanings of union voters in the new pre-runoff poll. As before, Black and Jewish voters tilted notably toward Bradley. But the election appeared very close overall and likely to be determined by voters who were still undecided.

Only a few days before the runoff election, it was revealed that Mayor Yorty had bought himself a life insurance policy using campaign funds back in 1965. Yorty stated that "*it was none of anybody's business where the money came from*" and claimed (confusingly) that "*I think I earned it*."[84] There was also a renewed controversy about the mailer the Yorty campaign had revised after litigation. The revised

[84]Quoted in Richard Bergholz, "Insurance Policy Bought by Political Gifts, Yorty Admits," *Los Angeles Times*, May 26, 1973.

version carried a statement implying court approval of its contents – against a stipulation in the settlement that no such statement should appear.

The final TV debate, just a few days before the election featured the various topics that had emerged in the lead-up to the runoff. There was Yorty's insurance policy and the donation of the wife of a city official to the Yorty campaign. There was the Huey Newton endorsement of Bradley. There was a mailing to generally White districts by the Yorty campaign warning of a "black bloc" vote. There was John Floyd and the Black Panthers. And there was former police chief William Parker and his opinion of Bradley. The *LA Times* ran yet another editorial saying Bradley was a leader for the city while Yorty seeks "*to confuse and deceive*."[85] And the city awaited the election and its results.

From Election to Inauguration

"*We will make Los Angeles the jewel of the Pacific Coast basin and one of the great cities of the world*."

Mayor-Elect Tom Bradley[86]

"*The change will be a very radical one and there will be a lot of people who wish they got out to vote*."

Mayor Sam Yorty[87]

On the night of Election Day, the absentee ballots – which at the time tended to be conservative – first came in and favored Yorty, raising fears in the Bradley camp that the results of 1969 were repeating.[88] But in the end, the outcome was not even close. The undecided vote tilted heavily towards Bradley when voters had to make a binary decision. Perhaps the result was voter fatigue with Yorty after twelve years. Perhaps – with the memory of the 1965 Watts Riot fading – the racially-tinged Yorty tactics of 1969 did not work as well in 1973. Perhaps it was that Bradley simply did not present as the scary radical that Yorty purported him to be. In 1969, Bradley was just one councilmember who had to introduce himself to the LA electorate. By 1973, however, thanks to the substantial media attention paid to the contest in 1969, Bradley was much better known by voters.

	Runoff May 29	Field Poll May 19 - May 23	Field Poll April 28 - May 3	Primary April 3
Bradley	56%	43%	42%	35%
Yorty	44%	37%	39%	29%
Undecided	na	20%	19%	na
Other candidates	na	na	na	36%

na = not available

[85]"The Right Mayor for Los Angeles," *Los Angeles Times*, May 27, 1973.
[86]Quoted in Bill Boyarsky, "Bradley Vows to Keep Chief Davis and Provide More Men on the Beat," *Los Angeles Times*, May 30, 1973.
[87]Quoted in Ibid.
[88]J. Gregory Payne and Scott C. Ratzan, Tom Bradley: *The Impossible Dream* (Santa Monica: Roundtable Publishing, 1986). p. 127.

Still, given Yorty's projection of him as a closet radical, Bradley moved to reassure the city of a smooth transition. Bradley announced he would retain C. Erwin Piper, the city's administrative officer (a kind of chief operating officer or city manager) who handled day-to-day management of the municipal bureaucracy. When Piper died in 1992, then-Mayor Bradley declared that "*in 16 years in public life, the only thing I ever agreed with Sam Yorty on was C. Erwin Piper*."[89] And rather than upset international relations, Bradley said he would keep Yorty's "sister cities" program intact – a program associated with the former mayor's propensity for foreign travel. Presumably, avoiding the international embarrassment of having to un-sister this or that city was something the mayor-elect wanted to avoid.

Bradley did not have the authority to hire and fire police chiefs. But he indicated that he was happy to have Ed Davis continue as the chief because he was a good administrator. However, he noted that the chief sometimes had made off-the-cuff remarks that weren't helpful and that after the election he had told Chief Davis so in "*the kind of remarks you'd give to a friend*."[90] (At one point, the chief had talked about trying and hanging airplane hijackers right at the airport.) After a subsequent meeting, Davis declared that he would have "*a good, constructive working relationship*" with the new mayor.[91]

The *LA Times* was naturally pleased with the Bradley victory. It praised his retention of Piper, his plans to appoint a blue-ribbon committee to advise him on administrative appointments, and Bradley's "*commitment to bring unity to the city*."[92] Bradley's victory led to national TV network coverage and interviews. Exactly how much cooperation Bradley was going to get from Yorty during the transition was unclear. Yorty said he would cooperate. But he reappointed a commissioner to the Housing Commission whose term had lapsed, rather than leave the position open for Bradley to review when he took office on July 1.[93]

Yorty and Bradley met subsequently to discuss the transition and, although there were some words of cooperation, Yorty declined to make a joint photo appearance with Bradley. In a 1978 oral interview, Bradley said Yorty never made a formal "concession" after losing the 1973 election.[94] However, Yorty never disputed the election results.

Apart from the meeting with Yorty, Bradley made trips to Sacramento and Washington to promote a rapid transit plan, even before the inauguration. His campaign finance director, Gray Davis (the eventual governor of California) announced plans to pay off over half a million dollars in campaign debt. Bradley met with the LA County Board of Supervisors to discuss city-county cooperation. He also met with the president of the LA City Council with whom he would have to work once he took office. Plans were made for the July 1 inauguration, and it was announced that former chief justice of the U.S. Supreme Court Earl Warren would swear in Bradley. Various key aides who would serve the incoming Bradley administration were named.

---

[89]Quoted in Burt A. Folkart, "Retired City Executive C. Erwin Piper Dies," *Los Angeles Times*, July 23, 1992.
[90]Quoted in Robert Rawitch, "Bradley to Require Financial Disclosure by His Appointees," *Los Angeles Times*, June 1, 1973.
[91]Quoted in Doug Shuit, "Bradley, Davis Call Meeting Productive," *Los Angeles Times*, June 6, 1973.
[92]"A Good Beginning," *Los Angeles Times*, June 3, 1973.
[93]The appointment could not take effect without approval of the City Council.
[94]*The Impossible Dream: Tom Bradley*, Oral History, Department of Special Collections, UCLA, 1978-1979, p. 184. Available at https://oac.cdlib.org/ark:/13030/hb4c6009nh/?brand=oac4.

Yorty left town for an Alaska cruise about a week before the inauguration and announced he would not be attending the ceremony. When he returned to LA about a week after the inauguration, he said Bradley had forgotten to invite him and when he finally received an invitation, it was too late. The next year, he failed in an attempt to win the Democratic nomination for governor. He ran for mayor again in 1977 against Bradley and failed. In 1980, he failed in an attempt to get the Republican nomination for U.S. senator.[95] Apart from these unsuccessful runs for office, Yorty had a local TV show for a time and went back to being a lawyer in the private sector.

Tom Bradley did not run for re-election in 1993, after serving as mayor for twenty years. He had a stroke that left him unable to talk in 1996 and died in 1998 at age 80. That same year, Sam Yorty also suffered a stroke and died soon after at age 88.

The Yorty Years as a Transition

"*Let it be said that we built the kind of government that the decent, hardworking citizens of Los Angeles respected because it respected them*."

Mayor Tom Bradley's first inaugural address [96]

"*I gave the city an international reputation, and I built the city up in a lot of ways, you know, all the things I built here. Nothing's been done much since*."

Former Mayor Sam Yorty in 1987[97]

The Yorty years encompassed a shift in the center of gravity of Los Angeles that Yorty first rode into power. But the shift eventually left him behind. For many years, the downtown elite and the *LA Times* dominated the fate of the city. But urban development into the once rural San Fernando Valley created a large population of White suburbanites who were distant from downtown and City Hall. The downtown elite wanted city development somehow centered on the downtown, the pattern of major cities elsewhere. But the freeways and the automobile meant that development would be spread.

The new arrivals were more attuned to a Yorty of Studio City in the Valley than to the old guard. It was a matter of style in part and a matter of distance. The newcomers didn't like to be told by City Hall that they had to separate their trash, Yorty's issue against downtown elite in 1961. And what happened downtown in terms of development wasn't of much interest to those in the Valley; they didn't go there.

As for other elements of policy, Yorty and the old guard were not that different. Both favored a limited city government that worked reasonably well but that didn't muck around with social issues. Social issues were best left to the police to deal with, in this view. Both favored boosterism and civic projects such as the Music Center. Thus, although the *LA Times* fervently opposed Yorty in 1961, when it became apparent during his first term that the streets would be paved and growth would continue, it endorsed him in 1965.

---

[95]It's not clear when Yorty formally changed his voter registration from Democratic to Republican.
[96]Quoted in "'Turn to Tomorrow' – Bradley Outlines Plans in Inaugural Talk," *Los Angeles Times*, July 2, 1973.
[97]*Ask the Mayor: Samuel Yorty*, UCLA Oral History Program, 1987. Available at https://archive.org/details/askmayororalhist00yort/page/n7/mode/2up.

The Watts Riot shortly after the 1965 election, however, demonstrated that all was not well in Los Angeles and suggested that there should be a mayor who thought doing something about the underlying conditions that produced it was part of the job. Yorty didn't think it was his job. Bradley did. So, the *Times*, whose political orientation was itself shifting with its readership, endorsed Bradley in 1969.

Watts, however, produced two opposing forces. The rising liberal Westside voters and elites saw Watts as a wake-up call to confront the social ills of the city and saw Bradley as a potential answer. Black voters saw Yorty as unresponsive to their concerns and Bradley as someone who would pay attention. But Watts, combined with other fractures that had developed in society – campus unrest, Vietnam War protests, assassinations – also created a backlash that enabled Yorty to be re-elected in his first contest with Bradley.

By 1973, at least at the time of the municipal elections, there was a calmer external atmosphere. With less fear in the air, other concerns such as the environment became more significant. The world had changed. Yorty remained the same. Bradley represented the future; Yorty the past.[98]

With hindsight, we know that Bradley couldn't fix everything that ailed LA, especially in the context of LA's weak mayor system. He did see the new transit system for LA that he advocated start to be constructed, a project that is still underway. But his final term as mayor also saw the LA Riot, a sign that major social problems remained in the city. Reforms of the LAPD followed, although these changes largely played out under subsequent mayors. Still, when international travelers arrive and depart from the Los Angeles airport, they are likely to do so through the Tom Bradley terminal. Students in the local school district attend the Tom Bradley Global Awareness Magnet School.

In contrast, there are no monuments in LA to Sam Yorty. If Yorty is remembered at all, it is in the shadow of his campaigns against Bradley. Yes, during Yorty's years in office, the modern LA Zoo was created, as was the Convention Center, and the Music Center. But Yorty is known instead for the kind of divisive politics that have now returned to contemporary America.

[98]The documentary, "Bridging the Divide: Tom Bradley and the Politics of Race," by Lyn Goldfarb and Alison Sotomayor (2015) argues that the Bradley coalition served as a model for the Obama campaign at the national level. Available from https://www.mayortombradley.com/.

Chapter 10

Transforming Car Wash Worker Rights: *An Analysis of California's "Car Wash Worker Law"*

Katherine Sánchez, Lily Cain, Sonita Tan, and Anahí Cruz

The authors prepared this chapter from their Applied Policy Project (APP) report developed, a component of the UCLA Luskin School of Public Affairs Master of Public Policy (MPP) program. The full report is available from the authors. Information contained in this chapter is current through spring 2022. Subsequent developments are not reflected.

In 2003, California's Car Wash Worker Law (Assembly Bill 1688) passed in the legislatures, and was signed by Governor Arnold Schwarzenegger, ensuring that car wash owners would comply with minimum wage laws. The new law required car wash owners to register with the Labor Commissioner's Office and imposed a fine on car wash owners who refused to comply.[1] Application requirements included a registration fee of $250, to be adjusted for inflation, plus a $50 annual fee for each branch location.

These fees were deposited into the Car Wash Worker Restitution Fund. Employers were also required to have a surety bond of at least $15,000, which would be used to recover wages for an employee whose employer failed to pay them their owed wages or other benefits.[2] This chapter explores the legacy of AB 1658, the first major attempt to regulate labor conditions in the car wash industry. Proposals for policy reforms are presented after analysis of the current state of industry regulation.

Developments Following AB 1688

AB 1688 had a sunset clause of January 1, 2007, three years after its enactment; if it did not get extended by that date, the law would have expired.[3] Although the law was enacted in early 2004, car wash owners did not begin registering their businesses until 2006 after the Division of Labor Standards Enforcement (DLSE) established and implemented their registration services.[4] By 2008, only 65% of the estimated 1,600 car washes in the state were registered and in compliance with the law.[5]

After two new laws in 2006 and 2009 extended the sunset clause, AB 1387, an updated version of the Car Wash Worker Law was signed by Governor Jerry Brown on January 1, 2014.[6] As of 2022, car wash employers are required to pay an annual registration fee of $250, plus an additional $50 for each branch they operate. Of the registration fees, $50 is deposited into the Car Wash Worker Restitution Fund, which is made available for workers who file wage claims.

[1] "Bill Text - AB-1688 Car Washes." Accessed January 14, 2022. https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=200320040AB1688.
[2] Ibid.
[3] Ibid.
[4] Schwarzenegger, Arnold. "2008 Report on the Status of Enforcement in the Car Washing and Polishing Industry Labor Code Section 2068," 2008, 4.
[5] Ibid.
[6] Ibid.

The remaining $200 is used to support the enforcement capacity of the DLSE. If an employer fails to register, the Labor Commissioner's Office:

> *"May cite an employer and impose a civil fine if, upon inspection or investigation he or she determines that the employer has failed to register pursuant to Labor Code Section 2054. The citation may be served personally or by registered mail in accordance with subdivision (c) of Government Code Section 11505. A citation must be in writing and describe the nature of the violation, including reference to the statutory provision allegedly violated."*[7]

The fines are valued at $100 per day, up to $10,000 (maximum 100 days), of which 50 percent goes into the Car Wash Worker Restitution Fund. As stated in the Car Wash Worker Law:

> *"Moneys from the fund shall be disbursed, upon appropriation by the Legislature, by the commissioner only to persons determined by the commissioner to have been damaged by the failure to pay wages and penalties and*

Glossary:

CLEAN - Community Labor Environmental Action Network

DLSE - Division of Labor Standard Enforcement (Labor Commissioner's Office)

LETF - Labor Enforcement Task Force

DIR - Department of Industrial Relations

WCA - Wage Claim Adjudication unit within the DLSE

BOFE - Bureau of Field Enforcement unit within the DLSE

Bet Tzedek Legal Services - Bet Tzedek provides free, expert legal advice and representation to low-income residents of Los Angeles County.

Judgment - Decision handed down from the Superior Court based on Labor Commissioner recommendation that specifies the amount owed by an employer to a claimant

Surety bond - A surety bond is a legally binding contract entered into by three parties—the principal, the obligee, and the surety. The obligee requires the principal, typically a business owner or contractor, to obtain a surety bond as a guarantee against future work performance.

Car Wash Worker Restitution Fund - Established by AB 1688, this fund is in place for *carwasherxs* with wage claim judgments to be able to collect their unpaid wages if they are not able to collect from their employers. Money from the fund comes from car wash registrations and fees imposed for unregistered car washes

Car Wash Worker Fund - This fund also comes from car wash registrations and fees and goes toward costs incurred by the commissioner in the wage claim process.

[7] Ibid.

other related damages by any employer, to ensure the payment of wages and penalties and other related damages."[8]

A restitution fund was established by the original Car Wash Worker Law, AB 1688, in 2003. In California, the only other industries restitution funds are the garment, construction, and agricultural industries.

The State of the Carwash Industry

As of 2022, according to the DIR, only 633 car washes are registered in California.[9] However, there are an estimated 2,025 car washes in the state.[10] California has the highest number of car washes and car wash employees in the nation, surpassing all other states in 2019. California also has the highest number of car wash employees, with 24,851 people who work in the industry.[11] In Los Angeles County, there are more than five hundred car washes alone, accounting for one quarter of all car washes in the state, with combined reported annual revenues of more than $250 million.[12] In 2017, California car washes brought in $1.6 billion in sales. Meanwhile, the average annual salary for car wash workers was $21,199.[13] Moreover, out of the approximately 10,000 car wash workers in LA County, 64.7% were first generation immigrants from Latin America and at least 27.1% were undocumented.[14]

In 2008, investigators from the *Los Angeles Times* found that many car washes in the state — almost four in ten — weren't registered, and two-thirds of car washes were not in compliance with one or more of the state's labor laws.[15] DLSE investigators also estimated that at least half of all car wash owners in the state continued to violate minimum wage laws.[16] Previous reports indicated that *carwasherxs* were often not being paid the minimum wage.[17] Instead, they were paid a daily rate that varied depending on the car wash. *Carwasherxs* we spoke with reported a general awareness about which car washes paid daily rates and which ones paid hourly wages.

According to data going back to 2009, an average of 859 registrations were filed with the California Labor Commission each year. The California Labor Commissioner's Office cited an

[8] "Bill Text - AB-1688 Car Washes." Accessed April 12, 2022. https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=200320040AB1688 .
[9] "Registrations."
[10] Greater Irvine Chamber.
[11] Ibid.
[12] Roca-Servat, Denisse. "The Struggle for Rights in Labor-Community Coalitions: The Los Angeles CLEAN Carwash Campaign 1," August 1, 2012.
[13] "Census - Table Results." Accessed January 14, 2022. https://data.census.gov/cedsci/table?g=0100000US,%2404000%24001_0400000US06&n=811192&tid=CBP2019.CB1900CBP.
[14] Ibid.
[15] Nazario, Sonia and Doug Smith. "Workers Getting Soaked at Southland Carwashes." *Los Angeles Times*, March 23, 2008. https://www.latimes.com/archives/la-xpm-2008-mar-23-me-carwash23-story.html.
[16] Ibid.
[17] *Carwasherx(s)* is the gender-inclusive term by which car wash workers are referred in this report.

average of 91 car washes for registration violations per year, amounting to a total of $8.7 million in fines from car wash employers over eight years (Figure 1).[18] It is important to note that due to decreased DLSE enforcement efforts resulting from the COVID-19 pandemic in 2020 and 2021, the number of car wash registration citations dramatically declined.

Year	Car Wash Registration	Number of Registration Citations	Penalty Assessment Amount
2010	956	196	$ 1,325,600.00
2011	1005	150	$ 1,163,950.00
2012	1033	80	$ 609,750.00
2013	1012	47	$ 381,900.00
2014	814	94	$ 823,400.00
2015	746	148	$ 1,267,100.00
2016	847	144	$ 1,115,200.00
2017	860	99	$ 859,800.00
2018	868	56	$ 495,600.00
2019	764	61	$ 484,600.00
2020	770	5	$ 38,900.00
2021	628	13	$ 113,900.00

Figure 1: Car Wash Registrations and Citations, 2010-2021

The average penalty assessment for each employer during this time period amounted to $8,089.[19] However, the average payment received from employers only amounted to $3,709.[20] According to Senior Deputy Labor Commissioner Jocelyn Lopez, car wash owners are able to enroll in payment plans and oftentimes stop paying their fees once deputies move onto other cases or once notices for payment stop arriving.[21] There is no follow up process for the collection of payments.

COVID-19 Pandemic

As with many other low-wage industries, workers at car washes struggled during the COVID-19 pandemic. Most *carwasherxs* we spoke to reported being out of work due to car wash closures, some for upwards of six to seven months. When we spoke with organizers from the Community Labor Environmental Action Network (CLEAN), they reported the difficulties that many *carwasherxs* faced as a result of being laid off, even if temporarily.

The COVID-19 pandemic exacerbated issues such as food insecurity, housing insecurity, and access to healthcare. According to the organizers, many workers' children relied on schools to provide breakfast and lunch, which they did not always have access to during the pandemic. CLEAN supported *carwasherxs* during this time by tapping into their donors to fundraise for grocery cards and other purposes, and also connected workers with housing activists in order to

[18] Division of Labor Standards Enforcement, *Car Wash Registrations and Citations Data*, March 19, 2022, distributed by Department of Industrial Relations.

[19] Division of Labor Standards Enforcement, *Car Wash Registrations and Citations Data*, March 19, 2022, distributed by Department of Industrial Relations.

[20] Ibid.

[21] Jocelyn Lopez. Interviewed by Katherine Sánchez z. Online Interview, March 15, 2022.

speak with their landlords about its rights to not be evicted during the pandemic.[22] In addition, through their organizing and outreach, CLEAN was able to provide approximately $1.5 million to *carwasherxs* through the California Immigrant Resilience Fund, which provided funding to immigrants who were unable to access other government stimulus or relief programs.

None of the *carwasherxs* we interviewed reported receiving any economic support from their employers during this time. According to CLEAN, a very small number of their members received severance pay from their employers, and at least one car wash owner took the money out of their paycheck when they returned to work. However, many car washes in California and Los Angeles received loans from the Paycheck Protection Program (PPP), which was intended to help small businesses keep their workforce employed during the height of the pandemic.[23] The website federalpay.org, which lists the companies that received loans, has approximately 500 car washes in the state who received loans, ranging from $92,000 to almost $2 million.[24] While we do not have data on which car washes that received PPP continued supporting their employees, we do know that many *carwasherxs* struggled economically throughout the pandemic.

The Key Policy Question

Throughout this chapter, we seek to address the following policy question: How effective have AB 1688 (2003) and AB 1387 (2013) been in addressing wage theft for *carwasherxs* in California? To answer this question, we relied on data from the main state government agencies involved, interviews with government officials and with advocates, labor lawyers, and *carwasherxs*, some conducted in Spanish and translated to English. Our interviews with *carwasherxs* were arranged through CLEAN, so the individuals chosen were more knowledgeable about the industry than typical.

We identified six key findings from our analysis that speak to the challenges regarding the efficacy of the Car Wash Worker Law. The preamble to AB 1688 begins with a declaration of the labor problems that plagued the carwash industry in the early 2000s, and then concludes:

> *Existing labor laws and enforcement efforts have failed to remedy these problems. Therefore, it is the intent of the Legislature, in enacting this act, to establish a system of registration, bonding requirements, and enforcement to impose prompt and effective civil sanctions for the violation of the provisions set forth in this act or any provision of law applicable to the employment of workers in the car washing and polishing industry*.[25]

[22] Rodriquez, Flor and Andrea Gonzalez. Interviewed by Katherine Sánchez. Online Interview, November 12, 2021.
[23] "SBA Paycheck Protection Program Data Lookup - FederalPay.org." Accessed April 12, 2022. https://www.federalpay.org/paycheck-protection-program/.
[24] Ibid.
[25] "Bill Text - AB-1688 Car Washes."

The following findings drove our development of proposed policy options, which are aimed at building upon the Car Wash Worker Law's regulatory capacity in order to reduce labor law violations in the car wash industry. Through a variety of interviews and data collection, we found pervasive issues concerning unpaid wages, off-the-clock work, break period violations, and a plethora of administrative issues that have hindered the efficacy of the law.

Finding 1: *Carwasherxs* are discouraged from filing wage claims due to the Division of Labor Standards Enforcement's (DLSE) long processing times.

> *"We started the wage claim process and then the pandemic hit, and we didn't hear from the Labor Commissioner's Office for two years. And when we finally had our court hearing, well things were not the same. One can't remember exact details after so much time has passed by. It was hard to recount our story to the judge. It was hard, but the judge knew what had happened to us. She knew what they had done. But, it has not been easy, it's been difficult for us all and it's still not over."*
>
> *Carwasherx* 2511

All workers interviewed that identified themselves as being or having been part of a wage claim stated experiencing grueling processing times that can average from four to six years. As one *carwasherx* explained,

> *"Yes, the truth is, it is very difficult to carry out this process because the Department of Labor does not have many people to carry out this type of investigation and we have already had talks with the Department of Labor on video calls and their excuse is that there are not enough people to investigate cases. And so that is why all of this is delayed a lot. The process goes on for years. As we have seen, it can take up to 5 or 6 years for them to solve cases of wage theft, or any other type of things at work, such as discrimination, such as dismissals, and all those types of injustices that have been going on for a long time in the car wash industry."*
>
> *Carwasherx* 2472

The DLSE adjudicates wage claims on behalf of *carwasherxs* who file claims for nonpayment of wages, overtime, or vacation pay, as per the California Labor Code (96) and (98).[26] When a wage claim is filed, DLSE investigates the claim to determine its validity and rule if any wages or benefits are owed. In most cases, DLSE deputies hold informal conferences between carwash employers and employees to resolve the wage disputes.

If the dispute cannot be resolved at the informal conference, an administrative hearing is scheduled so a hearing officer can review the evidence and make a final determination on the

[26] DIR. "Division of Labor Standards Enforcement (DLSE)." Accessed April 12, 2022. https://www.dir.ca.gov/dlse/HowToFileWageClaim.htm.

claim.[27] Similarly, the DLSE's Bureau of Field Enforcement (BOFE) conducts on-site inspections in industries to ensure compliance. BOFE also assists and educates employers on how to comply with the Industrial Welfare Commission Orders (IWC Orders) and the Labor Code.[28]

BOFE does not pursue individual claims for wages. That function is performed by the Wage Claim Adjudication (WCA) offices under the DLSE. When an initial report or complaint is received at BOFE, it is considered a report of alleged violations of the Labor Code and IWC Orders. The initial report is reviewed, prioritized and, if appropriate, assigned for investigation to a Deputy Commissioner. If the initial report is not assigned for immediate investigation, it may be used as a basis for a warning or letter of instruction to the employer, or it may be appended to a date when resources may be available to investigate the matter by a Senior Deputy Commissioner.[29]

When asked about the DLSE's case processing times, various Deputy Labor Commissioners explained the lack of capacity to process claims in a timely manner stems from staffing shortages at the WCA and BOFE offices. As detailed by Deputy Labor Commissioner, Juliet Ovalle:

> *"So, with the capacity, we have obviously folks that are out in the field like myself, Deputy Commissioner staff. But there's also support staff that are incredibly important to the operation and the work that we do like Auditors, Office Technicians, Management Services Technicians. Ideally you'd have a full operating team that supports staff and deputies, kind of working together. It's rare to have an office fully staffed for a long term, so I think that's a big problem overall."*[30]

This sentiment was echoed by WCA's Labor Deputy Commissioner, Nelida Contreras, who identified staffing gaps to be an everlasting issue at the DLSE. Contreras recounted how for a long period of time her office only had one assigned hearing officer due to high turnaround rates. When asked how this affected the unit, Contreras stated:

> *"It hindered our office a lot. It gave us a huge backlog because one hearing officer cannot hold these hearings by themselves, you know we get especially right now we're getting about 200 claims a month. And for one hearing officer to hear the length of one hearing could take two to three hours, depending on the type of testimony. Car Wash industry claims are one of those lengthy hearings. Testimonies are very lengthy because they have witnesses and each witness is about 30 minutes per person, then the defendant has attorneys who are defending them and that includes witness testimonies*

[27] Ibid.
[28] Ibid.
[29] Ibid.
[30] Juliet Ovalle. Interviewed by Sonita Tan. Online Interview, February 25, 2022.

as well. So, you see, this could be pretty lengthy for one hearing officer to uncover. Then, in the end they have to write a full decision that could be up to 200 pages, at a time."[31]

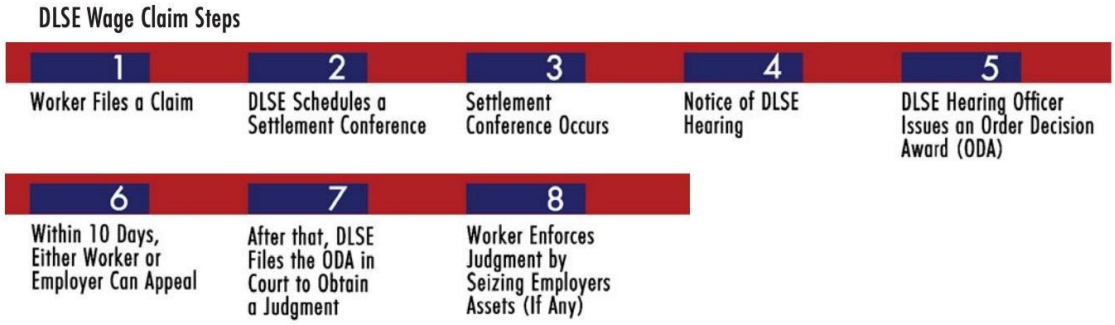
When asked how the DLSE could decrease its long processing times that often discourage *carwasherxs* from filing wage claims and reporting delinquent employers, Deputy Ovalle stated:

"A 200% staff increase, because wage theft is so prevalent. I've been doing this work for a long time, and I have been here at the Commissioner's Office for almost five years, but just in regards to working with low-wage workers, it doesn't stop. It only gets worse; it evolves and there is a real need to stop this type of pervasive theft."[32]

Agency officials also said changes in the law had given them new tools to combat wage theft but made the investigation process take longer. The WCA unit recently asked the Legislature for a budget increase to hire more staff. Their officers generally handle appeals of both big BOFE citations and wage claims brought by individual workers — the latter of which totaled more than 32,000 in 2018.[33]

According to the DLSE, by law, claims hearings are to take place 90 days from the date the Labor Commissioner determines to accept the complaint. A determination is then to be made within 30 days from filing. Accordingly, individual hearings should be held approximately 120 days from the date of the filing. However, the average wait time for individuals was 400 days in 2018, and that skyrocketed to 572 days in 2020 due to the pandemic.[34] The pandemic led the existing backlog of cases to become significantly worse. DLSE temporarily halted all in-person proceedings and investigations and struggled to conduct business remotely.[35]

Figure 2: Steps to Filing an Individual Wage Claim through the WCA Office[36]



[31] Nelida Contreras. Interviewed by Anahí Cruz. Online Interview, March 16, 2022.
[32] Juliet Ovalle. Interviewed by Sonita Tan. Online Interview, February 25, 2022.
[33] "Wage Claim Adjudication Support to Decrease Claim Processing Times," n.d., 18.
[34] Ibid.
[35] Nelida Contreras. Interviewed by Anahí Cruz. Online Interview, March 16, 2022.
[36] Cho, 2013

After the hearing has concluded, Labor Code section 98.1 requires the Labor Commissioner to issue an order, decision, or award (ODA) within 15 days. However, in 2018 the average number of days from hearing to the date of the ODA was 49. This climbed to an average of 79 days in 2019. These increases have to do with factors of case complexity, which are influenced by new laws that affect the DLSE's enforcement activities, and which in turn affect how much time commissioners dedicate to certain cases.[37]

Carlos Torres, the Assistant Chief of the WCA unit, also recognized that extensive processing delays give unscrupulous employers an "increased opportunity to further evade the responsibility of unpaid wages."[38] According to Torres, these delays can also be attributed to low-wage workers being put in situations where they are forced to give up in the process because they become discouraged, need to keep their current jobs, or they sacrifice too much work time to participate in proceedings.[39] Deputy Contreras also detailed how many workers who present wage theft claims through the DLSE live paycheck to paycheck, and live in constant fear of facing eviction.

The majority of these workers face language barriers that further discourage them from moving forward and testifying against unscrupulous employers.[40] The imminent fear of retaliation was also identified as a huge deterrent by officers.[41] Overall, the effects felt by wage theft victims are compounded in multiple ways by the long processing times caused by inadequate staffing at the DLSE.

Many *carwasherxs* who have gone through this process have been routinely failed by various systems of labor protection and institutions, leading to a lack of trust in the system and their agents. *Carwasherx 2592* expressed sentiments about the organization when depicting his current ten-yearlong wage claim lawsuit,

> *"It's been ten years and I haven't seen anything, not even a dollar of the reward. And there are times when I feel bad, but I want to be positive, so that I do not speak ill of anyone. Of course, in this case it is very difficult. And so, unfortunately, I have lost. But I still continue to put my trust in the Labor Commission and am deeply grateful to the CLEAN Carwash campaign. It is a tremendous organization that has supported me through everything and even until today."*
>
> *Carwasherx* 2592

[37] "Wage Claim Adjudication Support to Decrease Claim Processing Times," n.d., 18.
[38] Ibid.
[39] Ibid.
[40] Nelida Contreras. Interviewed by Anahí Cruz. Online Interview, March 16, 2022.
[41] Nelida Contreras and Jocelyn Lopez. Interviewed by Anahí Cruz. Online Interview, March 16, 2022.

Finding 2: The most common labor law violations that carwasherxs face when seeking their legal services is "off-the-clock" work that leads to lost wages.

According to Yvonne Medrano, an attorney at Bet Tzedek Legal Services, the most common labor law violation that *carwasherxs* face is "off-the-clock" work. A common practice in the car wash industry is that employers have *carwasherxs* report early to work, only to have them wait to clock in when the employers see fit. Many workers, including the ones we spoke to, experience these "wait times." Few understand this practice to be a violation of labor law. Medrano echoes this by saying:

> *"People don't realize that there is wage theft present. So, we'll have to state our question in a different way. For example, [not] 'How many hours did you work and how much is your salary?', but 'When did you get there and what time did you leave?' This has been going on for the past ten years. When the Car Wash Worker Law was implemented, 'tip only' work decreased. We got to see more punch cards, but those cards weren't always accurate, making our work a lot harder because they'll punch in later, but get there earlier and say they only worked for eight hours."*[42]

Hours of operation at car washes expand significantly over the summer. During warm and sunny weather, *carwasherxs* can work upwards of 40-60 hours a week. However, during the winter and rainy seasons, car flow significantly dwindles, leaving many *carwasherxs* facing serious reductions in their work hours. Some *carwasherxs* stated that managers justified their refusal to let them clock in based on inclement weather. Many workers received no explanation at all:

> *"Today they tell you "At 9 in the morning" and sometimes you don't clock in. They have some workers wait until 11. Two hours of waiting and nothing, well that's it. And the ten minute break, they have never wanted to give it to us. They almost tell us that it is not necessary, that one does not have to receive it. That's the problem. That's why I don't complain sometimes, ok?"*
>
> *Carwasherx* 2331

These irregularities in work hours lead employers to underreport workers' hours and, thus, not pay them for their entire workday. *Carwasherxs* are currently paid California's $15 per hour minimum wage, including workers in positions that require more training such as *diteleros* who wash the interiors and exteriors of cars. However, *carwasherxs* did report discrepancies in tips received. Most car wash workers reported that each worker usually keeps the tips they receive, and, on a few occasions, managers disburse *propinas* (tips) amongst all workers. Many individuals reported that some positions, such as *vaquadiores* who undertake vacuuming duties, do not receive any additional tips at the end of the workday.

[42] Yvonne Medrano. Interviewed by Sonita Tan. Online Interview, February 8, 2022.

Finding 3: Shortages of enforcement employees are hampering the Labor Commissioner's performance and causing stress for overworked employees.

Shortages of enforcement employees is a common feature of troubled state-funded government agencies. Such shortages lead to delayed services to the public and an overburdening of their workforce.[43] Affected services include those related to the protection of labor rights and the combat of wage theft, most of which are found in lower-wage industries.[44]

The Labor Commissioner's Office's ability to process wage claims in a timely manner has been crippled due to prominent understaffing issues throughout the years.[45] Shortages of employees are hindering agency performance and causing stress for overworked employees. This situation has adversely affected case management and mission accomplishment according to the WCA office.[46]

In 2019, the DLSE underwent a hard hiring freeze after the Department of Industrial Relations former executive director, Christine Baker, was accused of nepotism.[47] State Auditor Elaine Howle claimed Baker used the influence of her position to bypass California's civil service employment process in hiring and promoting her daughter for a position in her own department.[48] The hiring freeze was a result of a lawsuit against Baker and the Department of Industrial Relations that was defended by Attorney General Xavier Becerra. This lawsuit led to the restructuring of the internal hiring process and other California Human Resources policies.[49]

The hiring freeze was followed by another period of distress for the DLSE due to the COVID-19 pandemic. The COVID-19-induced financial crisis led to a decrease in the DLSE's proposed budget from $117 million in FY 2019-2020 to $93 million in FY 2020-2021.[50] This cut amounted to an approximately 20% reduction in state funding. Although the state budget does not disclose how much of this money is allocated to hiring personnel, the reduction can be attributed to the decline in staffing capacity within the DLSE. Budgetary constraints are typically

---

[43] Yoder, Eric. "Understaffing, Lack of Training at Agencies Hampering Agency Services to Public, Personnel Agency Says." *Washington Post*. Accessed April 12, 2022. https://www.washingtonpost.com/news/powerpost/wp/2018/02/08/understaffing-lack-of-training-at-agencies-hampering-agency-services-to-public-personnel-agency-says/.

[44] Romero, 2022

[45] Nelida Contreras and Jocelyn Lopez. Interviewed by Anahí Cruz. Online Interview, March 16, 2022.

[46] Juliet Ovalle. Interviewed by Sonita Tan. Online Interview, February 25, 2022; "Wage Claim Adjudication Support to Decrease Claim Processing Times," n.d., 18.

[47] Juliet Ovalle. Interviewed by Sonita Tan. Online Interview, February 25, 2022; McGreevy, Patrick. "California State Agency Director Wrongly Helped Hire and Promote Her Daughter, Audit Says." *Los Angeles Times*, March 27, 2019. https://www.latimes.com/politics/la-pol-ca-california-government-director-nepotism-audit-20190326-story.html.

[48] Ibid.

[49] Juliet Ovalle. Interviewed by Sonita Tan. Online Interview, February 25, 2022.

[50] "Ebudget." Accessed April 12, 2022. https://www.ebudget.ca.gov/budget/publication/#/e/2021-22/ExpendituresPosistions/7350.

cited as the basis of long-term staffing reductions.[51] Moreover, various deputies that we spoke to also said that the difficulties of filling vacancies and high turnover were due to non-competitive wages and has also contributed to staffing shortages within the DLSE.[52]

Although the proposed budget for FY 2022-23 increased to $145 million and the proposed number of FTEs stood at 816.9, per our conversations with various deputies, this improvement has not been enough to strengthen the DLSE's performance.[53] According to the state Department Finance records, the unit only has 64 hearing officer positions.[54] The unit was initially established to give workers a no-cost and quick alternative to suing an employer, but it is constrained by the low number of hearing officer positions it holds.

Deputy Ovalle detailed how the number of staff that focus on car wash leads are limited and these cases, which are assigned to them by Senior Deputies, are heavy in their load and complexity.[55] Similarly, Deputy Contreras explained in detail how most high-volume offices across California only have one informal subject matter expert who oversees car wash wage claims.[56] Renee Amador, legal director at the Maintenance Cooperation Trust Fund, corroborated that deputies have many more cases than one person should be assigned. According to her, the DLSE is an office that is passionate about enforcing the law, "*but if they don't have the people that can do so, then they're only going to be able to do so much.*"[57]

In 2020, the legislature approved a budget increase proposal to hire 63 positions, including 14 new hearing officers by mid-2024. However, state officials, such Senator Dave Cortese, remain skeptical on whether this budget increase will be sufficient to decrease current processing times or increase field enforcement efforts.[58] Cortese believes the agency has remained inefficient for far too long and, given the longevity of the problem, recommends that the "*entire culture of the operation to be addressed and revisited and restructured*."[59] He also called for the creation of more effective ways for handling claims, as well as the need for greater resources so that the DLSE can meet their statutory obligations and accomplish their agency mission.[60]

---

[51] Yoder, 2022.

[52] Juliet Ovalle. Interviewed by Sonita Tan. Online Interview, February 25, 2022; Nelida Contreras. Interviewed by Anahí Cruz. Online Interview, March 16, 2022.

[53] "Ebudget." Accessed April 12, 2022. https://www.ebudget.ca.gov/budget/publication/#/e/2021-22/ExpendituresPosistions/7350.

[54] Ibid.

[55] Juliet Ovalle. Interviewed by Sonita Tan. Online Interview, February 25, 2022.

[56] Nelida Contreras. Interviewed by Anahí Cruz. Online Interview, March 16, 2022.

[57] Romero, 2022

[58] Ibid.

[59] https://www.kqed.org/news/11903291/its-so-unfair-major-delays-at-state-labor-agency-leave-many-wage-theft-victims-uncompensated.

[60] https://esd.dof.ca.gov/Documents/bcp/2021/FY2021_ORG7350_BCP3767.pdf.

Finding 4: *Carwasheras* (female car washers) have higher instances of discrimination, including less pay for work of equal value, and harassment from employers.

"*A manager came up to me and said… if you don't go out with me, I'm going to cut your hours*."

Carwashera 1361

Initial findings indicate that *carwasheras* experience disparities in pay compared to male coworkers, and also abuse and harassment from both employers and coworkers. Many of the *carwasheras* we interviewed reported annual salaries that were significantly lower than most of the male *carwasherxs*. Annual salary for the *carwasheras* we interviewed hovered around $10,000-$11,000, whereas many male *carwasherxs* made between $15,000 and $25,000.

This difference can be attributed in part to the discrepancy between the jobs that men and women are assigned to work. Women are more often working jobs such as vacuuming and washing and folding towels, which are assigned lower pay. Meanwhile, men have the opportunity to work in drying and detailing, which in addition to being paid higher wages, are also positioned at the end of the carwash line, where workers additionally receive tips from customers.

While many *carwasheras* reported being discriminated against or threatened due to their lack of job security or citizenship status, *carwasheras* also experienced additional sex-based discrimination and intimidation. One worker said she had been threatened by her boss to go on a date with her, and if not, she would have her hours cut. Another reported that she had not had a pay raise due to being a woman, and when she confronted her employer about it, she was told that the employer believed she was able to get better tips as a woman.

> "*In the 18 years that I've worked, I never had a pay raise because I'm a woman. The first thing the manager told me is that I am a woman and customers are going to give me good tips, but that has nothing to do with it. He knows how much we suffer to get those tips. We work through thirst, sometimes hunger, and our managers just want us to keep working, to keep working, to keep working*."
>
> *Carwasherx* 1481

Carwasheras also reported harassment and coercion from their male coworkers. While these behaviors do not have the same impact on wage or job security as coercion from employers, they do affect their working conditions and feeling of safety on the job. One *carwashera* told us her experiences:

> *"I have colleagues who, for example, like to say good morning, hello my love, love of my life, etc. Those who engage with them in these types of conversations and behaviors tend to be more highly preferred and favored in the workplace. So that end, I would like for things to be more equitable. I have experienced men telling us women, "so if you are a woman, why don't you like working on certain types of cars? Why do you come and try*

to work in this line of work? Why do you even work here?" These are just some of the comments and behaviors we must endure as women."

Carwasherx 1421

Organizers from CLEAN, as well as *carwasheras* we interviewed, expressed that women's labor and their ability to perform certain tasks are often questioned by both bosses and their male coworkers. Our findings on these matters are limited due to having responses from only five *carwasheras*. However, these initial findings indicate a problem that is common across many low-wage industries, and it may be beneficial to investigate sexual harassment in future research.

Finding 5: Many employers have disappeared after judgments against them are handed down, preventing workers from collecting their unpaid wages.

"There's a lack of justice because the people that owe the money are not paying it."

Yvonne Medrano, Attorney, Bet Tzedek Legal Services

Consistent with state trends, *carwasherxs* who file wage claims rarely see full or any payouts from their employers. Of the 13 workers we interviewed who had filed wage claims, at least nine of them were still waiting for (or had not been paid fully) the amount that they were entitled to from their judgment. However, many accounts we heard, including from *carwasherxs*, advocates, and inside the Labor Commissioner's Office, described how car wash owners evade paying the unpaid wages by closing the business and hiding their assets.

Juliet Ovalle from the Labor Commissioner's Office attributed this failure to the changing of legal entities; owners often change the legal name or transfer ownership to a family member, all while keeping the business going but avoiding culpability: "*Legal entities change all the time*," she said. "E*mployers go out of the business, or they change to another entity to avoid being responsible for what they owe*." Changing legal entities is a way for employers to avoid paying because the former entity is found to be "non-active" by the California Franchise Tax Board or the California Secretary of State.[61] However, the car washes are able to continue operating. This evasion of payment is something of which advocates are also very aware:

"By the time the worker has a judgment in hand, …the employer has already claimed or filed for bankruptcy. They've already hid all of their assets. And it's really hard for the employee to be able to collect if it's not from the restitution fund."

Andrea Gonzalez, Lead Organizer, CLEAN Carwash Campaign

[61] Cho, Eunice Hyunhye, Tia Koonse, and Anthony Mischel. "The Crisis in Collecting Unpaid Wages For California's Workers," n.d., 32.

In fact, change of legal entity is so pervasive that some lawyers who support *carwasherxs* through the process of filing a claim are already prepared to support them in accessing the restitution fund, because they do not expect employers to pay. Medrano corroborated:

> *"Once we get a judgment, we just know the employer is not going to pay. We don't even wait for that. They're never going to pay and so we go to the fund."*

Finding 6: Many car washes are unregistered or evade the bond by providing proof of policy to register, only to cancel their bond shortly thereafter.

All car wash businesses in California must register with the Department of Industrial Relations and purchase a surety bond of $100,000 before they begin operations. The main issue is that many car wash owners will purchase a surety bond to register their business and cancel the bond soon after their business is registered. This practice causes major problems for those who filed wage claims and win because they can't access the surety bond.

In these cases, payouts come from the restitution fund, a tedious and long process that can take more than a year. The surety bond requirement in the Car Wash Worker Law becomes useless if employees cannot access payment from the bond. DLSE has no system in place to track businesses that have inactive surety bonds. [62]

Deputy Ovalle acknowledged that surety bonds are ineffective without a system in place to ensure that business owners do not cancel them after they register their businesses. Mandating car wash owners or the bond company to report when the surety bond is canceled will help with this issue.

> *"The bond is purchased through an insurance company, and they need to have it during the period of time that they are operating. But we found instances where employers will purchase it to register, but then cancel it afterward. The bond is there so that if employees file wage claims against their employers, they can collect from the surety bond. But right now, there's also no requirement for insurance companies to notify us if employers cancel their bond which is problematic."*[63]
>
> Juliet Ovalle, Deputy Labor Commissioner II

Western Carwash Association Executive Director Chris Buscaglia echoed Deputy Ovalle's sentiments about surety bonds. Buscaglia expressed concern about the efficacy of surety bonds to ensure Car Wash Worker Law compliance, especially with regards to registration. According to Buscaglia, "most people who need the bond don't have the bond. The people that you really want to go after are outside the net and it defeats the purpose of the bond."[64]

[62] Yvonne Medrano. Interviewed by Sonita Tan. Online Interview, February 8, 2022.
[63] Juliet Ovalle. Interviewed by Sonita Tan. Online Interview, February 25, 2022.
[64] Chris Buscaglia. Interview by Katherine Sánchez. Online Interview, March 15, 2022.

Car wash owners are required to show proof of an effective surety bond when they register their establishment. However, many proceed to cancel their bond shortly after registering their business with the DLSE. Currently, there is nothing explicitly written in the Car Wash Worker Law that mandates bond companies or car wash owners to notify DLSE of the termination of a surety bond. This loophole is problematic given that the surety bond is set in place to ensure *carwasherxs* can receive their settlement if a judgment on a wage claim is filed in their favor.

Policy Recommendations

Based on our research findings, we propose four policy reforms:

> *1: Insert legislative language to the Car Wash Worker Law that penalizes "off-the-clock" wage theft in car washes.*
>
> *2: Submit a budget change proposal to the legislature to hire more personnel at the Labor Commissioner's Office (DLSE).*
>
> *3: Establish a lien system to ensure that carwasherxs receive payment.*
>
> *4: Creation of a unit in the Labor Commissioner's Office that specializes in wage claims for the carwash industry.*

Each proposal is discussed below.

Policy Option 1: Insert legislative language to the Car Wash Worker Law that penalizes "off-the-clock" wage theft in car washes.

The most prevalent form of wage theft in the car wash industry is "off-the-clock" work. Most *carwasherxs* we interviewed reported having to show up early to work, and then being forced to wait to clock-in until their employers see fit. In California, employers are required to compensate workers with "report time pay," which is a form of wages that compensates employees who are required to report to work but are not put to work. Given the prevalence of reporting time pay violations and "off-the-clock" work in the car wash industry, combating this issue will require added legislative language within the Car Wash Worker Law.

We recommend implementing more *punitive* language into the law that outlines punishments or fines employers will face when they commit wage violations. The law today has no punitive language in the face of widespread wage theft. As the law stands, it only provides preventive measures against wage theft. The only relevant civil fine for wage violations is housed under section 1712.4 of the law that states car wash owners who have outstanding "unpaid wages," are unable to register or renew their registration with the Labor Commissioner's Office. Any employer who fails to register is considered to be, "*guilty of a misdemeanor punishable by a*

fine of not more than one hundred dollars ($100) for each calendar day the employer conducts car washing and polishing while unregistered."

The Car Wash Worker Law must specifically address practices of wage theft in the industry and should create civil law statutes that deter employers from such practices. Given the proven trends of wage theft that have remained prevalent for the many years, the law must tackle these trends head on and utilize strategic legislative language.

Policy Option 2: Submit a budget change proposal to the Legislature to hire more personnel at the Labor Commissioner's Office (DLSE).

After we spoke to Deputies in the Labor Commissioner's Office, it became evident that the number of qualified enforcement employees is at the heart of the large majority of the big problems that *carwasherxs* face when filing a wage claim.[65] The DLSE's failure to resolve wage theft cases in a timely manner makes it hard for workers to collect what is owed to them.[66] Moreover, the backlog of cases worsened during the COVID-19 pandemic.[67]

As mentioned previously, in 2020 the state Legislature approved funding to increase the state Labor Commissioner's WCA unit by 63 positions, including 14 new hearing officers by mid-2024.[68] However, given the gaps in staffing levels at both WCA and BOFE, it is unclear whether the WCA's proposed budget request to hire more staff will alone result in shorter processing times. Thus, in addition to WCA's existing budget request to hire more personnel, future budget proposals should include an increase in positions rising to 63 and an increase in funding rising to $8.6 million by fiscal year 2025-26.[69]

It is important to target the hiring of skilled personnel and likewise invest in robust new-hire training programs at the DLSE. According to Eduardo Martinez from the California Labor Federation, this strategy is imperative:

> "*Even if you throw a bunch of money at a Labor agency, that doesn't mean that they can just turn around tomorrow and hire a bunch more people. So, part of what I've heard is that part of the struggle is that it (labor law enforcement) requires a very specialized skill set, and it is hard to get folks who meet those qualifications*."
>
> Eduardo Martinez, Legislative Director, California Labor Federation

[65] Juliet Ovalle. Interviewed by Sonita Tan. Online Interview, February 25, 2022.
[66] Interview with Matthew DeCarolis. Interviewed by Sonita Tan. Online Interview, February 27, 2022.
[67] Romero, 2022.
[68] DIR. "Division of Labor Standards Enforcement (DLSE) - Reporting Time Pay." Accessed April 12, 2022. https://www.dir.ca.gov/dlse/faq_reportingtimepay.htm.
[69] Ibid.

Policy Option 3: Establish a lien system to ensure that *carwasherxs* receive payment.

When *carwasherxs* file wage claims, they often find that their employers or former employers have closed their business and are no longer reachable for collecting on their judgments. When this happens, *carwasherxs'* only form of recourse is to try to collect from the Car Wash Worker Restitution Fund, which involves additional delays. Establishing a lien policy would create a new system in which *carwasherxs* could put a hold on the land on which the car wash is located in order to insure payment from the landowners.

A similar type of lien already exists in California in another context. Under Civil Code §8400-8494, contractors, subcontractors, laborers, and materials suppliers who work on the property of a homeowner are able to file liens on the property if they are not paid.[70] These are referred to as mechanics' liens, and they put the onus to pay on the property owner, even if the property owner is not the one responsible for the lack of payment. If the homeowner does not provide payment, the property can be foreclosed, forcing the sale of the property, and transferring money due for wages from the sale to the workers.[71] This process is often required within 90 days of filing the lien.

In 2012, SB 2517 was proposed by State Senator Mike Eng. This bill, if it had passed, would have authorized *carwasherxs* to place liens on the personal property of the car wash owner.[72] The bill failed in the Senate, but many advocates and activists have brought up a new lien process as a potential mechanism for *carwasherxs* to collect their wages.

A lien system that puts the onus on the property owners where the car wash resides would allow *carwasherxs* to collect unpaid wages more rapidly and might also put pressure on the car wash owners from a different direction. A lien system for the car wash industry would not decrease the time it takes for wage claims to be processed, but, if enacted in a manner similar to the mechanics' lien, could grant *carwasherxs* the ability to collect unpaid wages within 90 days of receiving their judgments.

Policy Option 4: Creation of a unit in the Labor Commissioner's Office that specializes in wage claims for the carwash industry.

DLSE data shows that between 2019 and 2021, the Labor Commissioner's Office took on 217 car wash wage claim cases. Currently, the Labor Commissioner's Office does not have the resources to investigate all violations that are reported, so they have to decide which cases they handle. In 1999, the garment industry established its own task force unit when the

[70] "California Civil Codes." Accessed April 12, 2022. https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=CIV&division=4.&title=2.&part=6.&chapter=4.&article=1.

[71] "Understanding Mechanics Liens - CSLB." Accessed April 12, 2022. https://www.cslb.ca.gov/consumers/legal_issues_for_consumers/mechanics_lien/.

[72] "AB 2517 Assembly Bill - Bill Analysis." Accessed April 12, 2022. http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_2501-2550/ab_2517_cfa_20120423_120939_asm_comm.html.

Garment Worker Protection Act was passed. The purpose of the task force is to protect garment workers' rights by investigating violations and helping garment workers file claims. According to Deputy Ovalle, the garment deputies help garment workers with the filing process and testify on their behalf.

Similar to the garment industry, a new provision should be made to the Car Wash Worker Law establishing a task force specifically for the car wash industry. Having the deputies help *carwasherxs* with the filing process would be helpful since the process is rather complex and lengthy. This could also incentivize more *carwasherxs* to speak up about the mistreatments they encounter at work.

The car wash industry is spread out across California while the garment industry is located mainly in Los Angeles. One difficulty in establishing a task unit for the car wash industry is that it would be challenging to have a special unit in every office across California. As seen in Figure 3, most wage claim cases filed between 2019 and 2021 were from the Greater Los Angeles area. The Greater Los Angeles area includes San Bernardino (n= 34), Los Angeles (n= 18), Long Beach (n= 6), and Van Nuys (n=7) which totals to 65 cases. Establishing a special unit in Los Angeles would have the greatest impact in the industry since most car washes are located in the LA area. Afterwards, special units could be established in other regions such as San Diego and Bakersfield where wage theft is also significant.

Figure 3: Car wash wage claims by DLSE jurisdiction, 2019-2021

	Number of Wage Claim Cases
Los Angeles	18
Long Beach	6
Bakersfield	29
Fresno	21
Oakland	11
Sacramento	13
Salinas	1
San Bernardino	34
San Diego	22
San Franciso	3
San Jose	19
Santa Ana	16
Santa Barbara	8
Santa Rosa	6
Stockton	3
Van Nuys	7

Policy Recommendations and Conclusion

Based on the evaluation of our proposed policies, we recommend that advocates for car wash workers push for the reforms below in the following order (high priority to low priority):

1. A budget proposal to the legislature to hire more personnel at the Labor Commissioner's Office (DLSE).
2. Insertion of more punitive language into the Car Wash Worker Law that would penalize "off-the-clock" wage theft in car washes.
3. Establishment a lien system to ensure that *carwasherxs* receive payment.
4. Creation of a task force unit in the Labor Commission that solely focuses on the car wash industry.

Even when a law is well designed when enacted, changes in the industry, the economy, and other factors will make adjustments and amendments necessary to ensure that it remains effective. The Car Wash Worker Law has now had two major iterations (apart from the extensions) — AB 1688 in 2003 and AB 1387 in 2013. The goal of this chapter is to begin an analysis of what elements of the law were most successful, which components were not effective, and how the two laws affected the industry and the *carwasherxs*. Much like the two laws, we focused our research primarily on wage theft. However, we recognized that there are other challenges that *carwasherxs* confront, including health, safety, and environmental hazards, as well as lack of medical insurance and limited social safety nets. These issues cannot be fully isolated from one another when understanding the industry.

Through our interviews and analysis of quantitative data on car wash registration and wage claims, we were able to pinpoint the main areas where the original laws were not able to regulate effectively: car wash registration, wage claim collection, and agency enforcement. Our policy reform recommendations expand on existing structures to help increase levels of registration, to decrease wait times for wage claims to be processed, and to provide more tools for workers to empower themselves in their organizing and advocacy. As research on this industry continues, we hope that our chapter will be useful in providing a better understanding of the issues *carwasherxs* face since the last update to the Car Wash Worker Law.

Bibliography

"2018-2019 The Bureau of Field Enforcement Fiscal Year Report: California Labor Commissioner's Office," 2019. https://www.dir.ca.gov/dlse/BOFE_LegReport2019.pdf

"Bill Text - AB-1003 Wage Theft: Grand Theft." Accessed April 6, 2022. https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB1003.

"Bill Text - AB-1387 Car Washes." Accessed April 6, 2022. https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201320140AB1387.

"Bill Text - AB-1688 Car Washes." Accessed January 14, 2022. https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=200320040AB1688.

"Bill Text - SB-973 Employers: Annual Report: Pay Data." Accessed April 12, 2022. https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200SB973.

"AB 2517 Assembly Bill - Bill Analysis." Accessed April 12, 2022. http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_2501-2550/ab_2517_cfa_20120423_120939_asm_comm.html.

Bureau of the Census. "Car Washes Help Maintain What May Be the Second-Largest Investment Many Will Make." Census.gov. Accessed January 14, 2022. https://www.census.gov/library/stories/2021/06/americas-love-affair-with-clean-cars.html.

"California Civil Codes." Accessed April 12, 2022. https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=CIV&division=4.&title=2.&part=6.&chapter=4.&article=1.

California, State of. "PDR FAQs – 2021 Reporting Year | DFEH." Accessed April 12, 2022. https://www.dfeh.ca.gov/paydatareporting/faqs/.

Cal/OSHA. "Labor Commissioner's Office Cites Playa Vista Car Wash More Than $2.36 Million for Wage Theft of 64 Workers | California Department of Industrial Relations." Accessed April 12, 2022. https://www.dir.ca.gov/DIRNews/2019/2019-37.html.

"Census - Table Results." Accessed January 14, 2022. https://data.census.gov/cedsci/table?g=0100000US,%2404000%24001_0400000US06&n=811192&tid=CBP2019.CB1900CBP.

Cho, Eunice Hyunhye, Tia Koonse, and Anthony Mischel. "Hollow Victories: The Crisis in Collecting Unpaid Wages for California's Workers," 2013.

CLEAN Carwash Worker Center. "Carwasherxs." Accessed April 12, 2022. https://www.cleancarwash.org/carwasherxs.

CLEAN Carwash Worker Center. "Our Purpose." Accessed April 6, 2022. https://www.cleancarwash.org/our-purpose.

Crossan, Andrea and Jasmine Garsd. "How a Sweatshop Raid in an LA Suburb Changed the American Garment Industry | The World from PRX." Accessed April 12, 2022. https://theworld.org/stories/2017-12-05/how-sweatshop-raid-la-suburb-changed-american-garment-industry

DIR. “Division of Labor Standards Enforcement (DLSE) - Reporting Time Pay.” Accessed April 12, 2022. https://www.dir.ca.gov/dlse/faq_reportingtimepay.htm.

“Ebudget.” Accessed April 12, 2022. https://www.ebudget.ca.gov/budget/publication/#/e/2021-22/ExpendituresPosistions/7350.

Flynn, Michael A., Donald E. Eggerth, and C. Jeffrey Jacobson Jr. “Undocumented Status as a Social Determinant of Occupational Safety and Health: The Workers’ Perspective.” American Journal of Industrial Medicine 58, no. 11 (2015): 1127–37. https://doi.org/10.1002/ajim.22531.

Greater Irvine Chamber. “California’s Love Affair with Cars Helps Keep Car Wash Industry in Tip Top Shape.” Accessed April 6, 2022. https://www.greaterirvinechamber.com/irvinechamber/news/latest-news/p/item/36105/californias-love-affair-with-cars-helps-keep-car-wash-industry-in-tip-top-shape.

Gstalter, Morgan. “Dems Gain Veto-Proof Supermajority in California Legislature.” Text. The Hill (blog), November 13, 2018. https://thehill.com/homenews/state-watch/416351-dems-gain-veto-proof-supermajority-in-california-state-senate-after/.

Narro, Victor H. “The Role of Labor Research and Education in the Labor Movement of the Twenty-First Century: The UCLA Labor Center and the CLEAN Carwash Campaign.” In *The Cambridge Handbook of U.S. Labor Law for the Twenty-First Century*, edited by Richard Bales and Charlotte Garden, 1st ed., 402–16. Cambridge University Press, 2019. https://doi.org/10.1017/9781108610070.042.

Narro, Victor, Janna Shadduck, and Abel Valenzuela Jr. “About the UCLA Center for Labor Research and Education,” n.d., 52.

Nazario, Sonia and Doug Smith. “Workers Getting Soaked at Southland Carwashes.” Los Angeles Times, March 23, 2008. https://www.latimes.com/archives/la-xpm-2008-mar-23-me-carwash23-story.html.

Maslowski, Michael. “2013–14 California Legislature,” n.d., 706.

McGreevy, Patrick. “California State Agency Director Wrongly Helped Hire and Promote Her Daughter, Audit Says.” Los Angeles Times, March 27, 2019. https://www.latimes.com/politics/la-pol-ca-california-government-director-nepotism-audit-20190326-story.html.

“Office of Wage Standards | Wages LA.” Accessed April 12, 2022. https://wagesla.lacity.org/#for-employers.

Organisation For Economic Co-Operation And Development. “Public Sector Transparency and The International.” (n.d.). Accessed March 12, 2022, from https://www.oecd.org/investment/investment-policy/18546790.pdf.

“Registrations.” Accessed April 6, 2022. https://cadir.secure.force.com/RegistrationSearch.

Roca-Servat, Denisse. “The Struggle for Rights in Labor-Community Coalitions: The Los Angeles CLEAN Carwash Campaign 1,” August 1, 2012.

Romero, Farida. “‘It’s So Unfair’: Major Delays at State Labor Agency Leave Many Wage Theft Victims Unpaid | KQED.” Accessed April 12, 2022. https://www.kqed.org/news/11903291/its-so-unfair-major-delays-at-state-labor-agency-leave-many-wage-theft-victims-uncompensated.

Salvador, Nicole. “Overview of Bureau of Field Enforcement,” n.d., 2.

“SBA Paycheck Protection Program Data Lookup - FederalPay.” Accessed April 12, 2022. https://www.federalpay.org/paycheck-protection-program/.

Schwarzenegger, Arnold. “2008 Report on the Status of Enforcement in the Car Washing and Polishing Industry Labor Code Section 2068,” 2008, 4.

UCLA Labor Center. “Gov. Brown Signs Landmark Wage Theft Bill.” Accessed April 6, 2022. https://www.labor.ucla.edu/ca-wage-theft/.

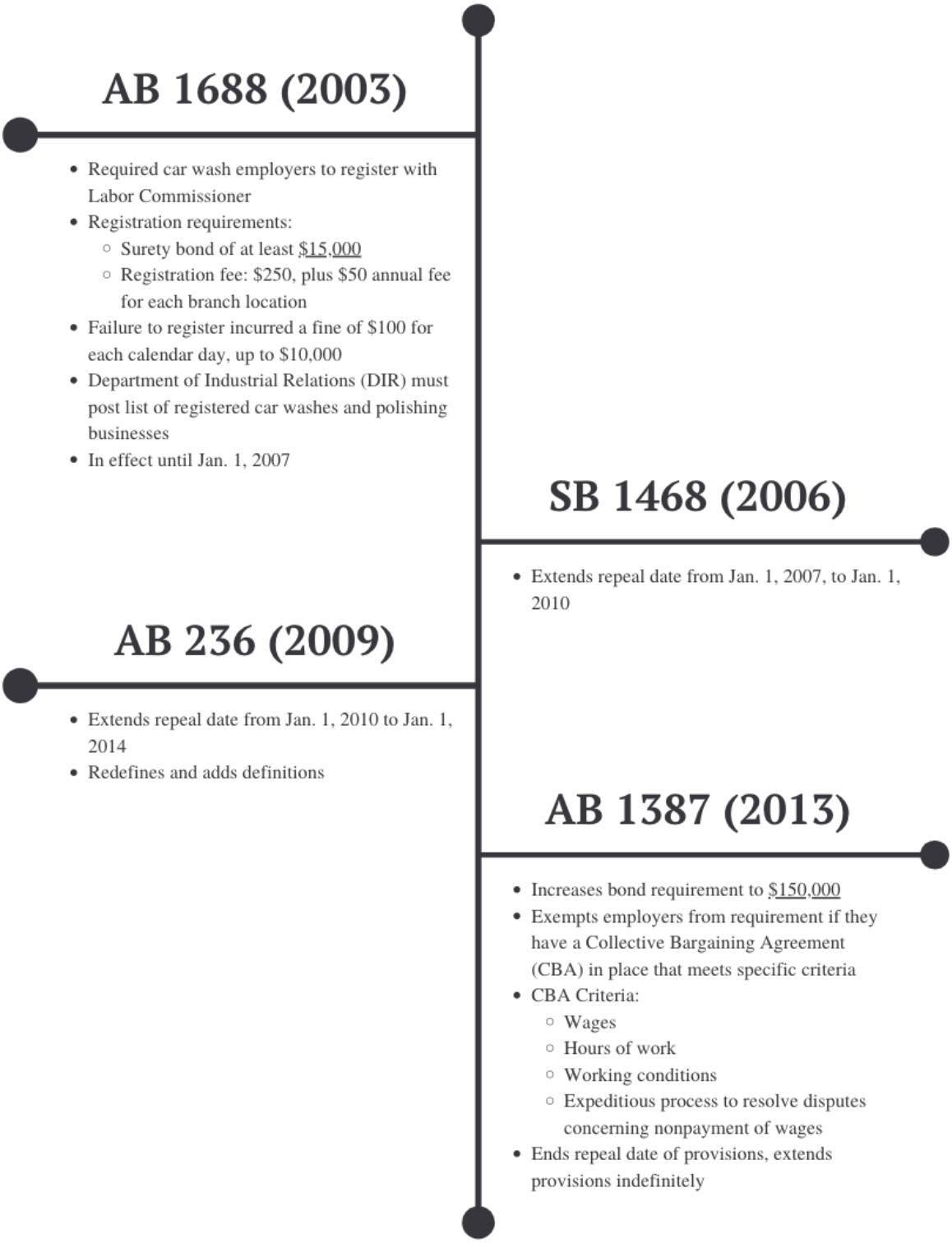
“Understanding Mechanics Liens - CSLB.” Accessed April 12, 2022. https://www.cslb.ca.gov/consumers/legal_issues_for_consumers/mechanics_lien/.

“US Department of Labor Launches Spanish Translation of Worker.Gov to Expand Awareness of Workers’ Rights | U.S. Department of Labor.” Accessed April 12, 2022. https://www.dol.gov/newsroom/releases/dol/dol20210401.

Wage Claim Adjudication Support to Decrease Claim Processing Times,” 2019, 18.

Yoder, Eric. Washington Post. “Understaffing, Lack of Training at Agencies Hampering Agency Services to Public, Personnel Agency Says.” Accessed April 12, 2022. https://www.washingtonpost.com/news/powerpost/wp/2018/02/08/understaffing-lack-of-training-at-agencies-hampering-agency-services-to-public-personnel-agency-says/.

Appendix: Timeline of the Car Wash Worker Law


AB 1688 (2003)
Required car wash employers to register with Labor Commissioner
Registration requirements:
Surety bond of at least $15,000
Registration fee: $250, plus $50 annual fee for each branch location
Failure to register incurred a fine of $100 for each calendar day, up to $10,000
Department of Industrial Relations (DIR) must post list of registered car washes and polishing businesses
In effect until Jan. 1, 2007
SB 1468 (2006)
Extends repeal date from Jan. 1, 2007, to Jan. 1, 2010
AB 236 (2009)
Extends repeal date from Jan. 1, 2010 to Jan. 1, 2014
Redefines and adds definitions
AB 1387 (2013)
Increases bond requirement to $150,000
Exempts employers from requirement if they have a Collective Bargaining Agreement (CBA) in place that meets specific criteria
CBA Criteria:
Wages
Hours of work
Working conditions
Expeditious process to resolve disputes concerning nonpayment of wages
Ends repeal date of provisions, extends provisions indefinitely

Chapter 11

Expanding DNA Collection from Felony Arrestees in California: *"Differently Situated Arrestees"*

Stanley M. Paul

Stanley M. Paul, J.D., Media Relations Manager,
UCLA Luskin School of Public Affairs

Introduction

"…we recognize that the DNA Act may raise additional constitutional questions that will require resolution in other cases."

California Supreme Court in *People v. Buza*[1]

The use of DNA evidence continues to serve as a powerful tool in helping law enforcement solve serious — even decades old and, in some cases, otherwise unsolvable — crimes and identify their perpetrators. At the same time, the collection of DNA from felony arrestees in California has continued to raise questions about the reach of its use and has brought new challenges to state and U.S. constitutionality of the practice. The expansion of the collection of arrestee DNA, and given rationales and justifications for doing so, can be observed through federal and state court rulings across the nation.

This chapter focuses primarily on California-based court cases that have served further to define, distinguish and expand the state's DNA collection policy. It also highlights exceptions created through state propositions that outweigh or override related state and federal constitutional protections and principles in a variety of ways.

Concepts such as privacy, while not specifically written (enumerated) in the U.S. Constitution, have been defined and further interpreted through judicial decisions at the U.S. Supreme Court level to support, create, and protect certain rights. However, more recent court cases have shown that concerns for privacy, when weighed against other competing interests such as the "critical and urgent needs" of law enforcement, don't tip the scales in their favor. Privacy issues come up short and are characterized as irrelevant, illusory, not directly related or "not constitutionally significant" to reaching overall court outcomes.

Privacy is enumerated and "enshrined" in California's Constitution — as opposed to the U.S. Constitution where it is not. However, privacy does not appear to derive any particular advantage or benefit from that status in criminal cases when weighed against competing interests and exceptions carved out by voter-approved legislation. These exceptions, then, become controlling state policy and legal authority. The scales continue to tip on the side of law enforcement and the collection and retention of DNA. Those interests, in addition to contravening legal doctrines, and higher court (U.S. Supreme Court) rulings, should be a

[1]The California Supreme Court case opinion *People v. Buza* (2018) cited as 413 P. 3d 1132 (case number S223698) at https://www.courts.ca.gov/opinions/archive/S223698.PDF

concern and serve as a warning that any other so-called "enshrined" California interests based on privacy are similarly vulnerable.[2]

Background

"In sum, we find the officials who were responsible for mistakenly collecting defendant's blood did so as a good faith effort to comply with the new law…"

People v. Robinson (2007)

A previous chapter in *California Policy Options* addressed the issue of whether a California state statute's DNA collection requirement for felony arrestees was valid as applied to an individual who was "validly arrested on probable cause to hold for a serious offense."[3] The California statute derived from Proposition 69, also known as the "DNA Fingerprint, Unsolved Crime and Innocence Protection Act," or "DNA Fingerprint Act," from 2004. Prop 69 expanded DNA collection to all felony arrestees, in addition to those convicted of felony offenses.[4]

Additionally, Proposition 69 amended and expanded a 1998 law enacted by the California State Legislature, the "DNA and Forensic Identification Date Base and Data Bank Act." It required collection of DNA for certain enumerated felonies only.[5] Also amended by the 2004 proposition was California Penal Code section 296, which enumerates "offenders subject to sample collection," including "**any adult person arrested or charged with any felony offense"** (effective as of January 1, 2009).[6]

In *People v. Robinson* (2007), a California appellate court upheld (and in 2010 the California Supreme Court affirmed) Proposition 69's expanded DNA collection requirement to "persons

---

[2]California Constitution, Article 1, Section 1: "All people are by nature free and independent and have inalienable rights. Among these are enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety, happiness, and **privacy**." *(Sec. 1 added Nov. 5, 1974, by Proposition 7. Resolution Chapter 90, 1974.)*
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CONS&sectionNum=SECTION%201.&article=I

[3]Paul, Stanley M., "DNA Collection from Felony Arrestees in California, in *California Policy Options 2021* (Chapter 6, pp. 117-139) which may be read at: https://issuu.com/danieljbmitchell/docs/cpo_2021 and https://escholarship.org/uc/item/6bh7z70p. The California Supreme Court case opinion *People v. Buza* (2018) cited as 413 P. 3d 1132 (case number S223698) may be found at https://www.courts.ca.gov/opinions/archive/S223698.PDF.

[4]California Penal Code, section 298.1, sub-division (a): http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN&sectionNum=298.1.

[5]The text of the DNA and Forensic Identification Date Base and Data Bank Act as amended in 2004 can be found at: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=PEN&division=&title=9.&part=1.&chapter=6.&article=1; See footnote 8 above on ACLU article calling Prop. 69 "a dangerous precedent," at: https://www.aclu.org/sites/default/files/images/asset_upload_file341_9567.pdf

[6]https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=296.&lawCode=PEN

convicted of felony offenses."[7] That case hinged on a blood sample "mistakenly" collected by law enforcement and which was later entered into a DNA database and used in convicting the defendant. The defendant sought exclusion of the evidence, a remedy based on a violation of his Fourth Amendment (search and seizure) rights.

The Court of Appeal wrote, citing a U.S. Supreme Court case, "Suppressing the evidence would achieve no deterrent value under these circumstances although it would have significant social costs." Affirming the California Court of Appeal ruling, the California Supreme Court wrote, "Although defendant's blood was mistakenly collected under the Act, we conclude that the law enforcement personnel errors in this case do not trigger the **exclusionary rule**. Accordingly, we affirm the Court of Appeal's judgment."[8]

A number of cases would follow which would test the reach of the state statute to other classes of arrestees. And a U.S. Supreme Court case would later intervene and profoundly affect and overwhelmingly influence California-based (state and federal) cases involving DNA collection.[9]

The *Buza* Case

"…we express no view on the constitutionality of the DNA Act as it applies to other classes of arrestees."

California Supreme Court in *People v. Buza* (2018)

Controversy over the expansion and reach of DNA collection under the updated law (California Penal Code Section 296 (a)) again arose in California-based cases including *People v. Buza*, which ultimately reached the state's Supreme Court — twice.[10] In question was whether the DNA Fingerprint Act violated either article 1, section 13 of the California Constitution or the

---

[7]*People v. Robinson*, 47 Cal. 4th, 1104, (2007) cited in *Buza:* https://www.courts.ca.gov/opinions/revpub/C044703.PDF
2010 California Supreme Court Case Number S158528 and disposition information: https://appellatecases.courtinfo.ca.gov/search/case/mainCaseScreen.cfm?dist=0&doc_id=1890206&request_token=NiIwLSEmPkg%2BWyApSSJNUEtIMFw0UDxfJiBeUzhRMCAgCg%3D%3D&doc_no=S158528. Robinson is also of interest for DNA identification in relation to statute of limitations ruling: "In this appeal we hold that the statute of limitations for a sexual offense is satisfied when the prosecution is commenced within the period of limitations by the filing of an arrest warrant predicated upon the identification of the perpetrator by a DNA profile."
[8]For more on search and seizure, the Fourth Amendment and exceptions to the exclusionary rules, see: https://www.govinfo.gov/content/pkg/GPO-CONAN-1992/pdf/GPO-CONAN-1992-10-5.pdf
[9]*Maryland v. King*, 569 U.S. 435 (2013) at: https://www.supremecourt.gov/opinions/12pdf/12-207_d18e.pdf
[10]https://oag.ca.gov/bfs/prop69. The proposed amendments to the 1998, expanding the law to include all felony arrestees can be read at: https://oag.ca.gov/sites/all/files/agweb/pdfs/bfs/sec_state_full_version_prop69.pdf and the legislative analyst's office at: https://lao.ca.gov/ballot/2004/69_11_2004.htm

Fourth Amendment to the United States Constitution.[11] Both address protection against "unreasonable seizures and searches" and share almost identical language.

At the trial court level in 2009 (after the DNA Act was updated and amended), Buza was convicted for the felony charge of arson and also for refusing to provide a DNA sample, a misdemeanor under California Penal Code, section 298.1, subd. (a).[12] A California Court of Appeal later sided with Buza, reversing the conviction for the misdemeanor. Subsequently, the California Supreme Court granted review of the case.

A similar Maryland case came before the U.S. Supreme Court and was decided while the *Buza* case was still pending in California. Following the Supreme Court decision in that case, the California Supreme Court sent (remanded) the case back to the California Court of Appeal to reconsider in light of the U.S. Supreme Court ruling, *Maryland v. King*, detailed below. The 2018 ruling in *Buza*, although siding with *King*, left open the possibility that there might be other challenges to constitutionality of the DNA Act in the future.

U.S. Supreme Court case *Maryland v. King* (2013)

"When there comes before us the taking of DNA from an arrestee for a traffic violation, the Court will predictably (and quite rightly) say, "We can find no significant difference between this case and King*."*

The late U.S. Supreme Court Justice Antonin Scalia from his dissent in *Maryland v. King*[13]

While the *Buza* case was pending in California, the U.S. Supreme Court ruled on a Maryland criminal case which asked a question similar to that in *Buza*: **"whether the Fourth Amendment prohibits collection and analysis of a DNA sample from persons arrested, but not yet convicted, on felony charges."**[14] A Maryland state Court of Appeals concluded that the DNA

---

[11] California Constitution, Article 1, Section 13: "The right of the people to be secure in their persons, houses, papers, and effects against unreasonable seizures and searches may not be violated; and a warrant may not issue except on probable cause, supported by oath or affirmation, particularly describing the place to be searched and the persons and things to be seized." *(Sec. 13 added Nov. 5, 1974, by Prop. 7. Res.Ch. 90, 1974.)*
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CONS&sectionNum=SEC.%2013.&article=I
U.S. Constitution, 4th Amendment: The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated; and no Warrants shall issue but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.
https://www.govinfo.gov/content/pkg/GPO-CONAN-1992/pdf/GPO-CONAN-1992-10-5.pdf

[12] California Penal Code, section 298.1, subd. (a):
http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN&sectionNum=298.1

[13] Scalia's dissent was joined by Justices Sotomayor, Kagan and the late Ruth Bader Ginsburg.

[14] *Maryland v. King*, 569 U.S. 435 (2013) at: https://www.supremecourt.gov/opinions/12pdf/12-207_d18e.pdf

collection from that defendant was "an unreasonable search in violation of the Fourth Amendment."

Although the Maryland Court of Appeals explained that King's "expectation of privacy is greater than the State's purported interest in using King's DNA to identify him," the U.S. Supreme Court majority disagreed in its 2013 5-4 ruling. The high court wrote in its conclusion and reversal of the Court of Appeals of Maryland:

> *"…DNA identification of arrestees is a **reasonable** search that can be considered part of a **routine booking procedure**. When officers make an arrest supported by probable cause to hold for a serious offense and they bring the suspect to the station to be detained in custody, taking and analyzing a cheek swab of the arrestee's DNA is, like fingerprinting and photographing, **legitimate police booking procedure that is reasonable under the Fourth Amendment**."*[15]

Like Justice Scalia and his co-dissenters on the Supreme Court, not everyone was in agreement with the outcome of *King*.[16] Constitutional law scholar Erwin Chemerinsky, a critic of the King decision, wrote in his 2018 book, *We the People*, that King was, "a very troubling decision and fails to recognize a serious threat to privacy."[17] In his most recent book (2022), he comments on the rationale of the King case:

> *No constitutional right is absolute, and constitutional cases constantly involve balancing the government's interest against the claim of a right. To pick an easy example, the Fourth Amendment prohibits "unreasonable" searches and seizures and arrests. But what is reasonable or unreasonable often cannot be answered from any original understanding. When the court considered whether the police can take a DNA sample from a person arrested for a serious crime to see if it matches DNA from an unsolved crime in the police database, the justices explicitly balanced the law enforcement benefits from obtaining the information against the invasion of privacy. They ruled five to four in favor of the*

[15]The California Constitution, in contrast to the U.S. Constitution, explicitly includes "privacy." https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CONS&sectionNum=SECTION%201.&article=I

[16]See Friedman, Barry, *Unwarranted: Policing Without Permission*, (2017), p. 274. "While DNA technology is worthy of our admiration, the Court's opinion in *Maryland v. King* is not. The decision in King is built on a lie."

[17]Chemerinsky, Erwin, *We the People*: A Progressive Reading of the Constitution for the Twenty-First Century (2018) at page 170. Chemerinsky is the Jesse H. Chopper Distinguished Professor of Law and dean of the Berkeley Law School, University of California at Berkeley. He is also the author of *Presumed Guilty: How the Supreme Court Empowered the Police and Subverted Civil Rights* (2021).

> *government. There obviously was no original understanding regarding the reasonableness of DNA testing.*[18]

Based on the Maryland case ruling by the U.S. Supreme Court, the California Supreme Court sent the case back to the lower California Court of Appeal to reconsider. But, once again, the lower court rejected Buza's conviction.

This time, the Court of Appeal, instead of focusing on the Fourth Amendment, or trying to distinguish the case from the Maryland case, focused on provisions of California's Constitution (article 1, section 13) on the theory that the state's version provided greater protection of privacy, asserting:

> *The DNA Act, to the extent it requires felony arrestees to submit a DNA sample for law enforcement analysis and inclusion in the state and federal DNA databases, without independent suspicion, a warrant or even a judicial or grand jury determination of probable cause, unreasonably intrudes on such arrestees' expectation of privacy and is invalid under article I, section 13, of the Constitution.*[19]

The California Supreme Court then took the case up for a second time to decide the following:

"Whether the collection of forensic identification DNA database samples from felony arrestees, as required by Proposition 69, violates either article I, section 13 of the California Constitution or the Fourth Amendment to the United States Constitution." [20]

The Court noted that *Buza* challenged the constitutionality of California's DNA Act "as it applies to various classes of felony arrestees." However, in determining whether the DNA Act is constitutional under either the Fourth Amendment or California's Constitution, the Court asserted that, in Buza's particular case, the question was narrower: "Whether the statute's DNA collection requirement is valid applied to individual who, like defendant, was validly arrested on 'probable cause to hold for a serious offense.'" The Court ruled, "Under the circumstances before us, we conclude the requirement is valid under both the federal and state Constitutions,

---

[18]Chemerinsky, Erwin, *Worse than Nothing: The Dangerous Fallacy of Originalism*, Yale University Press (2022) at page 71.

[19]Ibid. Also, see notice of de-publication of the 2014 California Court of Appeal by the California Attorney General at https://oag.ca.gov/sites/all/files/agweb/pdfs/info_bulletins/dle-2015-02.pdf

[20]The State (Plaintiff and Respondent) (i.e., "The People's") Request for Review may be found at: https://www.courts.ca.gov/documents/1-s223698-resp-pet-rev-010915.pdf and Opening Brief on the Merits at: https://www.courts.ca.gov/documents/2-s223698-resp-opening-brief-merits-052615.pdf
For *Buza*'s arguments for the California Supreme Court review, see "Appellant's Answer Brief on the Merits," at: https://www.courts.ca.gov/documents/3-s223698-app-answer-brief-merits-082715.pdf

and we express no view on the constitutionality of the DNA Act as it applies to other classes of arrestees."

The outcome in *Buza*, with the California Supreme Court's acceptance of *Maryland v. King*, still left open the possibility that there would be other challenges (and other classes of arrestees) to the constitutionality of the DNA Act to address in the future. The court wrote:

> *To entertain defendant's arguments here would convert our decision in this case, which concerns only the validity of defendant's conviction for violation of Penal Code section 298.1, into the equivalent of facial constitutional review of the DNA Act as it might be applied to other arrestees. But the DNA Act itself instructs that the validity of the Act as applied to defendant does not depend on its validity as it might apply to others.*
>
> *In sum: Defendant raises a number of concerns about the potential application of the DNA Act* ***in other cases****, involving other,* ***differently situated arrestees****. He also raises concerns that changes in technology might open up new prospects for using DNA samples and profiles in ways that are uniquely invasive of personal privacy.* ***We are mindful of these concerns, and we recognize that the DNA Act may raise additional constitutional questions that will require resolution in other cases.***

In concluding, the California Supreme Court also discussed its deference to state initiatives raised by California's citizens — the electorate:

> *In addressing concerns the defendant has raised here, however, we are also mindful of our role in reviewing a law duly enacted by California voters in the exercise of their initiative power. We have often said that 'it is our solemn duty to jealously guard' the initiative power secured by the California Constitution, and that we accordingly may not strike down voter measures 'unless their unconstitutionality, clearly, positively, and unmistakably appears (quoting the California case* Legislature v. Eu *(1991) 54 Cal.3d 492, 501.)*

And,

> *Whatever else this duty might entail, it surely entails an obligation to avoid invalidating the work of the California electorate on the ground that 'the law would be unconstitutionally applied to different parties and different circumstances from those at hand.' (citing* Sabri v. United States *(2004) 541 U.S. 609; also see [*In re*]* Cregler *(1961) 56 Cal2d. 313).*

Also, within the California Supreme Court opinion in *Buza*, the court recognized a federal case (below) for the purposes of making a distinction from *Buza*. *Haskell v. Harris* (affirmed in 2014), involved plaintiffs who challenged the law's application to **"those who are never charged with any crime."**

The plaintiffs sought to certify a "subclass" consisting of "arrestees compelled to submit samples under the DNA Act." The *Buza* court commented, "We only note them for purposes of contrast with this case, in which defendant bases his challenge to his misdemeanor refusal conviction on the potential for constitutional deprivation under circumstances that are not, in fact, present here."

A California Federal Case: *Haskell v. Harris*: Arrested but Never Charged— a Smaller Class?

"Because the last paragraph of the per curiam opinion vaguely implies something of Plaintiff's lawsuit may survive King, I respectfully concur only in the judgement."

From Judge Milan D. Smith, Jr.'s concurrence in *Haskell v. Harris* (2014)

A California-based case originating in 2009, shortly after Prop. 69 went into effect, and which would entail nearly a decade of legal proceedings and involve both the *King* and *Buza* decisions was taken up in the federal courts. Originally *Haskell v. Brown*, the case Involved different plaintiffs, joined in a class action, who were arrested but ultimately never charged. The 2009 district court case was decided against the plaintiffs at that time.[21] In 2012, before *King* was decided, the plaintiff's appeal of the district court ruling (denial of district court motion for a preliminary injunction to stop enforcement of the 2004 amendment to the 1998 DNA Act) was decided by a three-judge panel in the United States Court of Appeals for the Ninth Circuit.[22]

The court, affirming the lower court's ruling, wrote, "the balance of interests tilts strongly in favor of upholding the constitutionality of the 2004 Amendment." In a dissent by one of the Appeals Court circuit judges, William A. Fletcher, argues:

> *In* Friedman v. Boucher*, 580 F.3d 847 (9th Cir. 2009), we held that taking of a DNA sample without a warrant, and without suspicion of a crime that the DNA sample would help solve, violated the plaintiff's clearly established Fourth Amendment rights. Proposition 69 requires that DNA samples be taken from all*

[21] *Haskell v. Brown* (2009) Order Denying Motion for Preliminary Injunction (No. C 09-04779 CRB) in The United States District Court for the Northern District of California. https://www.govinfo.gov/content/pkg/USCOURTS-cand-3_09-cv-04779/pdf/USCOURTS-cand-3_09-cv-04779-6.pdf

[22] *Haskell v. Harris* (2012) https://cdn.ca9.uscourts.gov/datastore/general/2012/02/23/10-15152.pdf Note that the case name was changed from Haskell v. Brown to Haskell v. Harris to indicate Kamala D. Harris substitution from her predecessor Edmund G. Brown, Jr., as Attorney General of California (pursuant to Fed. R. App. P. 43(c)(2).

felony arrestees, with or without their consent, upon their arrest. There is no need for a warrant, and there is no need for suspicion of a crime that the DNA sample would help solve. Our decision in Friedman requires us to hold that Proposition 69 violates the Fourth Amendment.

The government's unequivocal interest in DNA collection is evident from an enthusiastic amicus (or friend of the court) brief filed in support of the *King* decision as it related to *Haskell*.[23] The brief makes very clear its total support of *King*. Its key arguments in finding DNA collection "reasonable" under the Fourth Amendment were:

A. The Interests that the Supreme Court Balanced in *King* Apply Equally to the California DNA Act.

B. The Differences Between the Maryland Law in *King* and the California DNA Act are not Constitutionally Significant.

And as sub-categories of their second argument, they assert:

1. ***King* is Not Limited to Offenses Plaintiffs Would Classify as "Serious"**
2. **Other Differences Between the Maryland and California Laws had No Bearing On The Court's Decision in *King*.**

In 2014, following the *King* decision, The United States Court of Appeals *en banc* (by the full court) sided with the 2013 U.S. Supreme Court decision and again affirmed the district court ruling against the plaintiffs.[24] In a concurring opinion, Circuit Judge Milan D. Smith, Jr., wrote, "Despite the clarity of the Supreme Court's holding, Plaintiffs argue that King does not apply to California's DNA collection law. But the purported distinctions that Plaintiffs identify are illusory." He continued, "After King, Plaintiff's facial and as-applied challenges to California's DNA collection law are clearly without merit, and any amendment to the Plaintiff's complaint would be futile. This case is over…"

Following the 2014 ruling, the lower district court stayed (held in abeyance) the case while awaiting the California Supreme Court's decision in *People v. Buza*, 4 Cal. 5th 658 (2018). At the Court's direction, the parties submitted supplemental briefs about the impact of the *Buza* opinion. "Unsurprisingly," said the court, "Defendants urge the Court to grant their motion for judgment on the pleadings, arguing that *King* controls…and Plaintiffs urge the Court to deny the motion, arguing that they were arrested but never charged, and so neither *King* nor *Buza*

[23]Brief for the United States as *Amicus Curiae* in Support of Appellees and Affirmance. https://cdn.ca9.uscourts.gov/datastore/general/2013/10/29/10-15152_US.pdf

[24]*Haskell v. Harris*, 745 F.3d 1269 (9th Cir. 2014) at: https://cdn.ca9.uscourts.gov/datastore/opinions/2014/03/20/10-15152.pdf

apply." In the end, after nearly a decade since the case originated in 2009, the district court affirmed the 2014 ruling, echoing Judge Smith, "This case is over."[25]

And yet, more — and different — challenges to the DNA Act would arise in California and different rationales would be put forward to support and to deny these challenges. In the case of *The People v. Daniel Joseph Marquez*, discussed below, the California Court of Appeal, Fourth Appellate District, Division 3, was ordered by the California Supreme Court to re-evaluate that case in light of the 2018 ruling in *Buza*.

People v. Marquez **and Attenuation: Last resorts, First impulses, Fruit of Poisonous Trees and Purging the Primary Taint**

"We are presented with the very situation that our Supreme Court declined to address in Buza; that is, there is nothing in the record to indicate that Marquez's 2006 arrest was supported by probable cause."

People v. Marquez (2019)

A more recent case in a California Court of Appeal illustrates that, after *Buza*, the collection of DNA in California for arrestees would continue to raise issues for judges to consider.[26]

In the *Marquez* case, the defendant was arrested on a drug possession offense in 2006. **He was never charged**. But, when arrested, and without his consent, Marquez's DNA was collected by authorities which was subsequently entered into a statewide database. In 2008, investigators retrieved DNA evidence from an Orange County robbery scene — a "cold hit," matching Marquez's DNA profile in the database. Police then contacted Marquez, and a second DNA sample was taken with his consent. That sample matched the DNA evidence from the robbery.

Two robbery counts and a related offense were filed against Marquez. The trial court denied Marquez's motion to suppress the DNA evidence, and he was convicted by a jury of all offenses. The court sentenced Marquez to 25 years to life in state prison as well as another 15 years for three alleged prior serious felony convictions.

---

[25] *Haskell v. Brown*, 317 F. Supp. 3d 1095 (N.D. Cal. 2018) (Case No. 09-cv-04779-CRB) at: https://www.govinfo.gov/content/pkg/USCOURTS-cand-3_09-cv-04779/pdf/USCOURTS-cand-3_09-cv-04779-22.pdf

[26] *People v. Marquez*: 31 Cal.App.5th 796 (2019) https://www.courts.ca.gov/opinions/archive/G048762M.PDF. More information on the case may be found at: https://appellatecases.courtinfo.ca.gov/search/case/mainCaseScreen.cfm?dist=43&doc_id=2052227&doc_no=G048762&request_token=NiIwLSEmXkg9WzBRSyNdTE9JUDw7UFxbJyBeWzxTUCAgCg%3D%3D

Before trial, Marquez filed a motion to suppress evidence — "the fruits" of an unlawful search — arguing that collection of the 2006 DNA sample was a violation of the Fourth Amendment. At trial, the court denied the motion to suppress the 2006 evidence, which at the time the court deemed lawfully collected. But, as an alternative, the court held that a 2007 court order for Marquez to have his DNA collected (related to another offence) served as an "Independent intervening event" and that that the 2008 DNA evidence was therefore "attenuated." Marquez's DNA was also "voluntarily" collected by authorities in 2008, which was ultimately used as evidence to tie him to the evidence found at the 2008 robbery scene. He was found guilty on all charges.

The appellate court wrote:

> *In an unpublished opinion, we held that the 2006 collection of Marquez's DNA was lawful under the Fourth Amendment. The Supreme Court ordered us to reconsider the cause in light of its later decision in People v. Buza (2018) 4 Cal.5th 658 (Buza).*
>
> *In this opinion, we now hold that the 2006 collection of Marquez's DNA sample was unlawful under the Fourth Amendment; the prosecution failed to prove that Marquez was validly arrested or that his DNA was collected as part of a routine booking procedure. However, the trial court properly admitted the 2008 DNA evidence under a well-established exception to the exclusionary rule, the* ***attenuation doctrine****."*

Under the doctrine of attenuation,

> *Evidence obtained through a wrongful search and seizure may sometimes be used in the criminal trial, if the prosecution can show a sufficient attenuation of the link between police misconduct and obtaining of the evidence. If an arrest or a search which was valid at the time it was effectuated becomes bad through the subsequent invalidation of the statute under which the arrest or search was made, evidence obtained thereby is nonetheless admissible.*[27]

The Court of Appeal further asserted:

> *However, the fact that a Fourth Amendment violation has occurred does not automatically require the application of the exclusionary rule. (See Herring v. United States (2009) 555 U.S. 135, 140.) "Indeed, exclusion 'has always been our*

[27]From Govinfo, a service of the United States Government Publishing Office (GPO) at 1266 under Amendment 4 — Searches and Seizures: https://www.govinfo.gov/content/pkg/GPO-CONAN-1992/pdf/GPO-CONAN-1992-10-5.pdf

last resort, not our first impulse.'" (Ibid.) "We have repeatedly rejected the argument that exclusion is a necessary consequence of a Fourth Amendment violation." (Id. at p. 141.)

The exclusion of evidence is not a "'but for'" test. (Hudson v. Michigan (2006) 547 U.S. 586, 592.) "'"[N]ot… all evidence is 'fruit of the poisonous tree' simply because it would not have come to light but for the illegal actions of the police. Rather, the more apt question in such a case is 'whether, granting establishment of the primary illegality, the evidence to which instant objection is made has been come at by exploitation of that illegality or instead by means sufficiently distinguishable to be purged of the primary taint.'"'" (People v. Brendlin (2008) 45 Cal.4th 262, 268 (Brendlin).)

The Court of Appeal further noted that the U.S. Supreme Court had identified the factors used to determine "whether the illegality (the poisonous tree) has become sufficiently attenuated to permit the admission of the obtained evidence (the fruit)," and that the California Supreme Court had decided a case that illustrated the doctrine's application (*Brendlin*, above).[28]

In summing up, the appellate court affirmed the lower court's ruling and use of the attenuation doctrine as justification to deny the motion to suppress DNA evidence.

A Belt Buckle, Cigarette Butts and Truth-in-Evidence: *The People v. Roberts*

"We further hold that defendant's state constitutional rights were not violated, but even if they were, the Truth-in-Evidence provision of Proposition 8 prohibits suppression of the DNA evidence in a criminal trial."

People v. Roberts (2021)

"The voters have spoken twice."

People v. Roberts (2021)

As a final illustrative case, *People v. Roberts*, decided in August 2021, asked: **whether using a DNA sample taken from a defendant who is validly arrested for a felony on probable cause**

[28]*People v. Brendlin*, 38 Cal.4th 1107 original opinion 45 Cal 4th 262 opinion after U.S. Supreme Court remand See case summary at: https://appellatecases.courtinfo.ca.gov/search/case/mainCaseScreen.cfm?dist=0&doc_id=1854812&doc_no=S123133&request_token=NiIwLSEmPkg9WyBFSCMtWEJIMDg0UDxfISIuQzlTQCAgCg%3D%3D

but never formally charged, violates the defendant's federal or state constitutional rights against unreasonable search and seizure or his state constitutional right to privacy.[29]

This case involved the brutal murder of a 13-year-old in 2012 and DNA evidence discovered on a belt buckle and cigarette butts that led to the identification of a suspect in the case a year after the murder. The murder most likely would have remained unsolved except for — and only for — DNA found at the scene linking the defendant to victim.

The defendant, Roberts, was arrested on an unrelated felony offense more than a year after the murder. His DNA was collected at the time of his arrest on probable cause, but he was never charged for the unrelated felony. That DNA connected Roberts to the crime scene and was used to convict him aggregate term of 26 years to life.

Among his arguments at the trial court, Roberts asserted that because of there were differences between the California and Maryland statutes, California's statutory scheme should not be upheld based on *King*. He also asserted that, because all felony arrestees in California must have DNA samples taken and analyzed, regardless of whether they are ever formally charged or convicted, the California statutory scheme grants law enforcement essentially "unfettered discretion" to take DNA samples. The prosecution countered that the United States Supreme Court's holding in *King* was unambiguous and also cited the *Haskell* ruling discussed above which sided with the *King* ruling.

The Roberts case was pending in a California Court of Appeal while the *Buza* case was decided. Thus, the Court of Appeal requested supplemental briefings from both parties, as in *Marquez* on the impact of the *Buza* ruling. Roberts contended, as noted in the Court of Appeal opinion, that he represented "a different class of arrestee than defendants in both *King* and *Buza* in that he was "neither formally charged nor convicted in connection with his felony arrest which led to the collection of his DNA sample."

In rejecting all of Robert's contentions that his federal and state rights had been violated, the Court of Appeal stated, "even if it did, suppression of the DNA evidence is not an available remedy because of the Truth-in-Evidence provision of Proposition 8, now codified in the California Constitution as Article 1, sec. 28, subdivision (f)(2).[30] The court recounted the

[29]People v. Roberts, 68 Cal.App.5th 64 (Cal. Ct. App. 2021) 283 Cal. Rptr. 3d 357 https://www.courts.ca.gov/opinions/archive/C081843M.PDF

[30]California Constitution, Article 1, sec. 28, sub-division. (f)(2) https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=SEC.+28.&nodeTreePath=2&lawCode=CONS&article=I

proposition, approved by California voters in 1982, "abolished the exclusionary rule as to 'evidence seized in violation of the California, but not the federal Constitution.'" Under this exception to an exclusionary rule, Truth-in-Evidence dictates that "relevant evidence shall not be excluded in any criminal proceeding…"

In a footnote in the opinion, the court further asserts, "the Truth-in-Evidence provision of Proposition 8, enacted by the electorate in 1982 is a more recent and more specific constitutional provision than the Privacy Initiative, enacted in 1972, so the privacy right does not trump Proposition 8." Thus, "enshrinement" would appear no more reassuring than whatever might come behind it.

In addition, the Court of Appeal, recognizing *Buza's* deference to the people's power of proposition, writes, "We note here, as did our high court in Buza, that, 'it is our solemn duty to jealously guard' the initiative power secured by the California Constitution, and that we accordingly may not strike down voter measures 'unless their unconstitutionality clearly, positively, and unmistakably appears.'" (and citing Legislature v. Eu (1991) 54 Cal.3d 492, 501 They go on with, "Here, two separate initiatives are in play, Proposition 69 and Proposition 8. The voters have spoken twice. As our foregoing analysis makes clear, we do not find any unconstitutionality clearly, positively, and unmistakably appearing in the DNA Act or in its application to defendant here."

Conclusion: For "Thee and me" — Is this Case Really Over?

"The Fourth Amendment must prevail."

The late U.S. Supreme Court Justice Antonin Scalia from his dissent in *Maryland v. King*

As can be seen, regardless of how an arrestee in California may be "differently situated" or possibly of a "different class," the *King* case appears to reign supreme in California-based court rulings along with voter-approved exceptions to exclusionary rules. Neither the Fourth Amendment nor the California Constitution seem to outweigh the Supreme Court's decision. Even those critical of the decision, in the case of one author, would agree that "it certainly seems hard to argue with a system that puts the Alonzo Kings of this world behind bars for life." But he counters, "As anyone can see, the DNA of arrestees is being checked to solve cold cases. That's not "identification" as normal people use the word. It is rather precisely what Maryland law says: The samples are collected 'as part of an official investigation into a crime. [31]

[31]Friedman (2017) at p. 274

The late U.S. Supreme Court Justice Antonin Scalia, in his dissenting opinion to *King* does not disagree that "solving unsolved crimes is a noble objective," rather, "…it occupies a lower place in the American pantheon of noble objectives than the protection of our people from suspicionless law-enforcement searches." And while he admits that the *King* decision will have the "beneficial effect of solving more crimes," he also hopes that the rulings "incursion upon the Fourth Amendment…will someday be repudiated."

In summing up his dissent in *King*, Justice Scalia wrote:

> *The Court disguises the vast (and scary) scope of its holding by promising a limitation it cannot deliver. The court repeatedly says that DNA testing will not befall thee and me, dear reader but only those arrested for 'serious offenses… I cannot imagine what principle could possibly justify this limitation, and the Court does not attempt to suggest any. If one believes that DNA will "identify" someone arrested for assault, he must believe that it will "identify" someone arrested for a traffic offense…At the end of the day, logic will out. When there comes before us the taking of DNA from an arrestee for a traffic violation, the Court will predictably (and quite rightly) say, 'We can find no significant difference between this case and King.' Make no mistake about it: As an entirely predictable consequence of today's decision, your DNA can be taken and entered into a national database if you are ever arrested, rightly or wrongly or for whatever reason…Perhaps the construction of such a genetic panopticon is wise."*

Regardless, new challenges will continue to find it difficult to overcome the impact of *King, Buza* and California's propositions, which, like privacy, are "enshrined" into the California Constitution. The question, as the state's policy on collection continues to expand, will be: how far does DNA collection reach?